

## **DECISION**

Dispute Codes      ET, FF

### Introduction

This is an application filed by the Landlord for an early end to tenancy and to obtain an order of possession and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have acknowledged receiving the submitted relevant evidence, I am satisfied that both parties have been properly served as deemed under the Act. The missing evidence that the Tenant did not receive from the Landlord consists of a 10 day notice to end tenancy for unpaid rent, rent receipts, an application for tenancy, a tenancy agreement and copies of two police officers business card. I find that this documentary evidence is not relevant or helpful in the Landlord's application.

The Tenant has stated that the application filed should reflect that his name is D.B. instead of B.D. The Landlord has confirmed this and both parties agree that the application can be amended to reflect this.

### Issue(s) to be Decided

Is the Landlord entitled to an order to end the tenancy early?

### Background, Evidence and Analysis

The Landlord states that the Tenant "attempted" to hit him and his wife. The Landlord states that the Tenant was very aggressive and abused them with coarse language. The Tenant disputes that he assaulted/hit anyone, but admits that he was swearing at the Landlord. The Landlord claims that the Tenant hit him by throwing a portable heater at him and by kicking a partially open door that was stopped by her forearm. The Tenant disputes this stating that he threw the portable heater, but did not hit the Landlord. The Tenant further states that he slammed the door, but that it did not hit the Landlord's wife. The Landlord states that a complaint was filed with the police who attended on the scene, but that no action was taken. The Tenant confirms this. Both parties agreed that the police deemed that this matter was for dispute at the Residential Tenancy Branch.

Section 56 of the Residential Tenancy Act states,

**Application for order ending tenancy early**

56 (1) A landlord may make an application for dispute resolution to request an order

- (a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and
- (b) granting the landlord an order of possession in respect of the rental unit.

(2) The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,

(a) the tenant or a person permitted on the residential property by the tenant has done any of the following:

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
- (iii) put the landlord's property at significant risk;
- (iv) engaged in illegal activity that

(A) has caused or is likely to cause damage to the landlord's property,

(B) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or

(C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;

(v) caused extraordinary damage to the residential property, and

(b) it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 [*landlord's notice: cause*] to take effect.

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

I find on a balance of probabilities that the Landlord has not established a claim to an early end of tenancy. In considering the testimony of both parties, I find that the Landlord has failed to provide sufficient evidence to satisfy me that the Tenant has seriously jeopardized the health or safety or a lawful right or interest of the Landlord. The Landlord's application is dismissed.

Conclusion

The Landlord's application is dismissed.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: July 06, 2012.

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Residential Tenancy Branch