



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET, FF

### Introduction

This hearing dealt with a landlord's application for an early end of tenancy and Order of Possession. The tenant did not appear at the hearing. The landlord testified that the tenant was served with the Application for Dispute Resolution and Notice of Hearing in person, at the rental unit, on June 27, 2012 in the presence of a witness. I was satisfied the tenant was sufficiently served with notification of this hearing and I proceeded to hear from the landlord without the tenant present.

The landlord acknowledged that the documentary evidence was not served upon the tenant as he has been in custody since being served with the hearing documents. I have not accepted or considered the documents in reaching this decision. Rather, this decision is based upon the information contained in the Application for Dispute Resolution and the landlord's testimony during the hearing.

### Issue(s) to be Decided

Has the landlord established that the tenancy should end early and an entitlement to an Order of Possession under section 56 of the Act?

### Background and Evidence

The tenancy commenced on or about May 20, 2012 and the tenant paid a security deposit of \$375.00 and one half of the monthly rent for May 2012. The tenant was required to pay monthly rent of \$750.00 on the 1<sup>st</sup> day of every month. On June 14, 2012 the tenant paid one-half of the monthly rent. The landlord gave the tenant a 10 Day Notice to End Tenancy for Unpaid Rent.

Upon returning home from vacation on June 24, 2012 the landlord heard from the neighbours that the police had been at the property in response to threats of suicide by the tenant. The landlord went to speak with the tenant during which time the tenant went ballistic and threatened to hit and kill the landlord. The landlord retreated to his

home and called police. The police arrested the tenant and found recordings the tenant made about ways he was going to kill the landlord.

Since the rental unit is a basement suite located in the landlord's house, the landlord's pregnant wife moved out of the landlord's home due to fear of the tenant. The landlord has asked a male friend to stay at the property while the landlord is away due to fears of the tenant's threats.

The landlord stated that he has been informed by the police that the tenant has been committed to a mental institution until a court date set for August 2, 2012.

The landlord expressed concern about a foul odour emitting from the rental unit and the landlord suspects it is rotten food or trash. The landlord requested authorization to enter the rental unit and dispose of any rotting food or odorous trash.

### Analysis

Section 56(2) of the Act permits a Dispute Resolution Officer to make an order to end the tenancy on a date that is earlier than the effective date on a 1 Month Notice to End Tenancy for Cause had one been issued. In order to grant an order to end the tenancy early I must be satisfied that:

(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.

The landlord bears the burden to prove the tenant has acted in such a way as to warrant an order to end the tenancy earlier than by way of a 1 Month Notice. The burden is high as this provision is intended to apply in the most severe circumstances.

Based upon the Application for Dispute Resolution before me and the landlord's undisputed testimony I find the landlord has established that the tenant's conduct is sufficiently severe as to warrant an early end of tenancy and an Order of Possession.

I order that the tenancy shall end two days after the Order of Possession that accompanies this decision is served upon the tenant. The landlord may serve the Order of Possession upon the tenant personally or by posting it on the door of the rental unit.

Pursuant to section 62 and 29 of the Act, during the hearing I provided the landlord verbal authorization to immediately enter the rental unit and dispose of rotting food or odorous trash. I have recorded such authorization in this decision as a matter of record.

I award the filing fee to the landlord. The landlord is authorized to deduct \$50.00 from the tenant's security deposit in satisfaction of this award.

### Conclusion

The tenancy shall end two (2) days after the Order of Possession is served upon the tenant. The landlord may serve the Order of Possession upon the tenant in person or by posting it on the door of the rental unit. The landlord has been authorized to enter the rental unit immediately in order to dispose of any rotting food or odorous trash. The landlord is authorized to deduct \$50.00 from the tenant's security deposit to recover the filing fee paid for this application.

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 10, 2012.

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Residential Tenancy Branch