



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

**ET, FF**

### **Introduction**

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an early end of the tenancy and an Order of possession and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that on July 27, 2012 copies of the Application for Dispute Resolution and Notice of Hearing were posted to the tenant's door at approximately 11:30 a.m. Evidence was posted with the Notice of hearing.

These documents are deemed to have been served in accordance with section 89 of the *Act*, however the tenant did not appear at the hearing.

The tenant did submit evidence for the hearing.

### **Issue(s) to be Decided**

Is the landlord entitled to end this tenancy early without the requirement of a Notice to End Tenancy?

Is the landlord entitled to an Order of possession?

Is the landlord entitled to filing fee costs?

### **Background and Evidence**

The tenancy commenced on June 1, 2007. Rent is \$590.00 per month, due by the 5<sup>th</sup> day of each month.

The landlord supplied evidence of letters given to the tenant warning him that the landlord cannot tolerate his swearing and vulgar behaviour. The landlord was accosted by the tenant recently, in a public place; the tenant made vulgar and degrading comments to the landlord's agent.

The police have been contacted but the tenant has not made overt threats against the landlord. Other occupants are unhappy and feel uncomfortable with the tenant's behaviour but have not come forward to testify.

The landlord has issued a 1 Month Notice to End Tenancy for Cause and a hearing is set for later in the month as the tenant has disputed the Notice.

The landlord said the tenant appears to be vacating his unit.

### Analysis

In order to establish grounds to end the tenancy early, the landlord must not only establish that they have cause to end the tenancy, but that it would also be unreasonable or unfair to require the landlord to wait for a Notice to end the tenancy under section 47 of the Act to take effect. Having reviewed the testimony of the landlord, I find that the landlord has not met that burden.

Section 56 of the Act provides a landlord with the ability to obtain an Order of possession if any of the following apply:

*(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.*

I have not made any finding in relation to the submissions made in support of a Notice ending tenancy for cause, only that the reasons given by the landlord have not

convinced me that an Order of possession is immediately required in accordance with section 56 of the Act.

Secondly, in the circumstances I do not find that it would be unreasonable and unfair to require the landlord to wait for a Notice to end the tenancy under section 47. The landlord may make evidence submissions and attend the tenant's upcoming scheduled hearing in support of the reasons they have given on the Notice to end tenancy.

### Conclusion

The application is dismissed.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: August 03, 2012.

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Residential Tenancy Branch