



# 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 the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an early end to this tenancy and an Order of Possession pursuant to section 56; and
- authorization to recover her filing fee for this application from the tenants pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to cross-examine one another. The male tenant's evidence was provided with the assistance of his wife, the female tenant, who acted as his translator. The parties agreed that in early May 2013, they discussed the possibility of ending this tenancy. The female tenant (the tenant) confirmed that on May 11, 2013, the landlord handed the tenants a 2 Month Notice to End Tenancy for Landlord's Use (the 2 Month Notice) seeking an end to this tenancy by June 30, 2013. The parties agreed that the earliest that this 2 Month Notice could take effect would be the corrected effective date of July 31, 2013. The tenant also testified that the landlord handed her a 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) on May 23, 2013, seeking an end to this tenancy by June 30, 2013. She also confirmed that the landlord recently handed her a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) for the tenants' failure to pay their June 2013 rent.

The tenant confirmed that the landlord handed her a copy of the landlord's dispute resolution hearing package on May 30, 2013. The landlord testified that the tenant handed her a copy of the tenants' written evidence package on June 1, 2013. She said that she had reviewed the tenants' package and was prepared to proceed with a hearing of her application for an early end to this tenancy. I find that the landlord served her dispute resolution hearing package to the tenants, and the parties have served one another with copies of their evidence packages in accordance with the *Act*.

Both parties confirmed that the tenants have applied for dispute resolution with respect to the landlord's issuance of the 1 Month Notice. The tenants have served the landlord

with a copy of a Notice of Hearing for June 18, 2013, a copy of which was included in the landlord's written evidence package. The tenant maintained that she included a dispute of the landlord's 2 Month Notice in her application for dispute resolution and that both the 1 Month and 2 Month Notices will be before the Arbitrator scheduled to consider the tenants' application on June 18, 2013. Residential Tenancy Branch (RTB) records confirm that the tenants' application to cancel both of these Notices is scheduled to be considered at the June 18, 2013 hearing. She also said that she planned to address the landlord's 10 Day Notice once she knows the outcome of the landlord's application to end this tenancy early.

#### Issues(s) to be Decided

Is the landlord entitled to an early end to this tenancy and an Order of Possession? Is the landlord entitled to recover the filing fee for this application from the tenant?

#### Background and Evidence

This periodic tenancy commenced on April 1, 2012. Monthly rent is set at \$1,200.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$600.00 security deposit, paid on March 15, 2012.

The landlord provided the following Details of the Dispute in her application for dispute resolution:

- *threats, intimidation*
- *personal Safety*
- *refuse to leave when stated or except the second notice*

(as in original)

In addition to her written evidence, the landlord testified that she applied for an early end to this tenancy because she felt harassed and intimidated by the tenants, and in particular, the male tenant. She also said that she was concerned that the tenants had barred her access to their rental unit and the water pump by nailing wood barriers to the inside of one of their doors. She maintained that she felt her safety and the safety of her children were in danger if this tenancy were to continue. She also complained of ongoing noise from the rental unit. She also alleged that there was an uninsured camper vehicle of the tenants on the rental property in contravention of the Addendum to the Residential Tenancy Agreement (the Agreement) with the tenants. She said this constituted a breach of a material term of their Agreement.

The tenant testified that her husband, the other co-tenant, speaks very little English and had no intention of threatening or intimidating the landlord. She gave undisputed sworn

testimony that the wood barrier to the rental unit has been removed and the landlord now has access to the rental unit in case of an emergency. She also gave undisputed sworn testimony that the camper vehicle was sold and removed from the premises a few days before this hearing. Both tenants testified that there was no reason that this tenancy should be ended before a consideration of their applications to cancel the 1 Month and 2 Month Notices to End Tenancy on June 18, 2013.

### Analysis

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an Order of Possession on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 for a landlord's notice for cause. In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that the tenant has done any of the following:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;*
- *seriously jeopardized the health or safety or a lawful right or interests of the landlord or another occupant.*
- *put the landlord's property at significant risk;*
- *engaged in illegal activity that has caused or is likely to cause damage to the landlord's property;*
- *engaged in illegal activity that 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;*
- *engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;*
- *caused extraordinary damage to the residential property, **and***

*it would be unreasonable, or unfair to the landlord, the tenant 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.*

Based on the testimony of both parties and my review of the written evidence, I find that the landlord has failed to prove that any of the circumstances described above exist such that it would be unreasonable or unfair to the landlord to wait until June 18, 2013 to determine the outcome of the tenants' application to cancel the 1 Month Notice and the 2 Month Notice and to wait for either of these Notices to take effect.

It is clear that the landlord wants this tenancy to end earlier than the corrected effective date of her original 2 Month Notice, July 31, 2013. The tenants have also submitted evidence that calls into question the motives of the landlord in issuing the 1 Month Notice only after the landlord realized that her issuance of the 2 Month Notice entitled the tenants to one month's free rent at the end of their tenancy and allowed them to remain there until the end of July 2013.

As I noted at the hearing, an application for an early end to tenancy is an exceptional measure taken only when a landlord can show that it would be unreasonable or unfair to the landlord or the other occupants to allow a tenancy to continue until a notice to end tenancy for cause can take effect or be considered by way of an application for dispute resolution. The landlord has issued three written notices to end this tenancy on proper RTB forms over the past month. Consideration of the tenants' application to cancel two of these notices will occur on June 18, 2013. Under these circumstances, I find that the landlord has provided insufficient evidence to demonstrate that it would be unreasonable or unfair to wait for her 1 Month Notice to take effect on June 30, 2013. I dismiss the landlord's application for an early end to this tenancy. As the landlord has been unsuccessful in her application, she bears the cost of her filing fee.

#### Conclusion

I dismiss the landlord's application for an early end to this tenancy and an Order of Possession. I also dismiss the landlord's application to recover her filing fee from the tenants.

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: June 05, 2013

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Residential Tenancy Branch

