



# 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 an application by the landlord pursuant to section 56 of the *Residential Tenancy Act*, for an order to end the tenancy early and obtain an order of possession. The landlord also applied for the filing fee. Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The tenant acknowledged receipt of evidence submitted by the landlord. Both parties gave affirmed testimony.

The landlord stated that on June 06, 2013 he served the tenant with a notice to end tenancy which was not on the appropriate form. He also stated that he served a valid notice to end tenancy for cause, on June 26, 2013 and shortly after the parties signed a mutual end to tenancy. The parties are scheduled to attend a hearing on August 27, 2013, to address the tenant's application to dispute this notice. This hearing only dealt with the landlord's application to put an early end to tenancy.

### **Issues to be decided**

Does the landlord have cause to end the tenancy early?

### **Background and Evidence**

The tenant rented the basement suite of the home, on January 01, 2013. The landlord lives upstairs.

The landlord testified that on May 14, 2013 around midnight, the smoke detector was set off. The landlord attempted to contact the tenant through the door that connects the rental unit to the main house. The landlord testified that when no one answered the door, she unlocked it and called the tenant's name. Someone other than the tenant answered and apologized for the disturbance. The landlord further testified that a similar incident took place on May 17 at 3am. The tenant stated that he is hard of hearing and did not hear the landlord knocking on the door. The tenant agreed that he heard the smoke alarm go off on both nights.

The landlord testified that on May 19, the tenant made a verbal comment to the landlord threatening to hit the female landlord with a baseball bat if she opened the door connecting the suite to the main house.

The tenant responded by agreeing that he had made a comment similar to the one the landlord alleged he did, but he stated that he informed the landlord that in the interest of his safety, he would use a baseball bat on anyone who entered his suite in the middle of the night without contacting him prior to entry.

The tenant also pointed out that the dates that the landlord verbally testified to do not match the dates in the landlord's written submission. The landlord replied stating that it was a typographical error.

The tenant offered to end the tenancy on September 15, 2013 but the landlord did not agree to a date beyond August 31, 2013.

### **Analysis**

Section 56 is an extraordinary remedy that is reserved for situations in which there is a clear and present danger, or a genuine threat of imminent harm of such an extreme nature that it would warrant immediate intervention and removal of the tenant.

In addition to proving that there is cause to end the tenancy, in an application of this nature the landlord must clear a second hurdle. Under section 56(2)(b) of the Act, in order to establish a claim for an early end to tenancy, the landlord must establish that "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" .

Based on the documentary evidence and testimony of the parties, I find that the incident that the landlord referred to occurred on or about May 19, 2013. The landlord made this application on July 29, 2013. If there was a threat of imminent harm to the landlord then the landlord would have made application, immediately after the incident. In addition, the landlord's oral testimony regarding the dates of the incident did not match his own written submission.

Based on the evidence and testimony of both parties, I am not persuaded that it would be unreasonable or unfair for the landlord to wait while a one month notice to end tenancy takes effect. While the landlord may have cause to end the tenancy upon one month's notice, the landlord has not established grounds for an extraordinary remedy such as this. For the above reasons, I dismiss the landlord's application to end tenancy early.

**Conclusion**

The landlord's application is dismissed and he must bear the cost of filing 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: August 13, 2013

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Residential Tenancy Branch

