



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET

### Introduction

This hearing was convened by way of conference call in response to a landlord's application to end the tenancy early and obtain an Order of Possession.

The tenant and the landlord appeared for the hearing and no issues in relation to the service of documents under the Residential Tenancy Act (referred to as the *Act*), were raised by any of the parties. Both parties provided affirmed testimony during the hearing and documentary evidence in advance of the hearing, all of which was considered carefully in this decision.

### Issue(s) to be Decided

Is the landlord entitled to end the tenancy early and obtain an Order of Possession?

### Background and Evidence

The parties agree that this month to month tenancy started on November 28, 2012. The tenant paid the landlord a security deposit of \$340.00 before the tenancy began which the landlord still retains. Rent is payable by the tenant in the amount of \$1,100.00 on the first day of each month. No written tenancy agreement was completed.

The landlord testified that the rental suite had been put on the market for sale a few months ago and the tenant had engaged in a course of action to prevent viewings of the rental suite, often claiming that she was sick when she was not. However, the rental suite eventually sold and the new buyers wanted to do a home inspection which the landlord testified the tenant is preventing them from doing.

In the landlord's written submissions he provides a contract for the sale and purchase of the rental suite showing the property has sold. The landlord also testified that the tenant had been given a number of notices for entry into the property. In his written submissions the landlord provided a number of pictures showing these notices posted to the tenant's door.

The landlord also provided e-mails detailing conversations which went back and forth between the tenant, the landlord and several realtors engaged in the sale of the property. The e-mails show the disputes between the landlord and tenant regarding the viewing times for potential buyers. On one occasion the landlord called police because the tenant was refusing the viewing and as a result had changed the locks. In the landlord's written submissions, a realtor states that he is concerned that the new buyers fear that the tenant may trash the house for spite when she is made to move out.

The tenant testified that she disagreed with the landlord's version of the events. In her written submissions the tenant eludes to the same e-mails provided by the landlord. In addition the tenant provided medical notes in relation to the reasons why she was unable to facilitate the viewings and testified that on one occasion one realtor during the viewing had overstepped his limitations for the viewing by going into her kitchen cupboards. In the tenant's written submissions she states that she has a successful accounting business and is a homeowner and landlord herself and as a result, the landlord's concern about her trashing the rental suite is ridiculous.

When the landlord was questioned as to why he had not addressed this issue with a 1 Month Notice to End Tenancy for Cause, the landlord testified that he had issued this to the tenant on September 30, 2013 and the reason for ending the tenancy is because the tenant knowingly gave false information to the prospective tenant or purchaser of the rental suite. The tenant confirmed receipt of this notice and stated that she had disputed this notice and had served the hearing papers to the landlord by registered mail; however, the landlord was not aware of this hearing. The landlord also testified that the tenant had not paid rent and had been issued with a 10 Day Notice for Unpaid Rent or Utilities on October 3, 2013 by posting it to the door. The tenant again confirmed receipt of this notice but was not sure whether she had disputed this notice without looking at her paperwork which was not with her at the time of this hearing.

The landlord was questioned as to the reasons why he had not sought an Order of Possession based on these notices. The landlord replied that he thought this hearing would deal with these notices. I note that the landlord did not submit any of the notices to end tenancy to which he testified to.

### Analysis

An early end of tenancy is an expedited and unusual remedy under the *Act* and is only available to the landlord when the circumstances of the tenancy are such that it is unreasonable for a landlord to wait for the effective date of a notice to end tenancy to take effect, such as a notice given under Section 47 of the *Act* for cause. The policy of the Residential Tenancy Branch is to caution a landlord applying for an early end of tenancy that no other issues will be considered during a hearing for such an application to end a tenancy early, such as rent due. At the dispute resolution hearing, the landlord must provide convincing evidence that justifies not giving full notice.

On this occasion I find that the landlord has not provided me with convincing evidence for ending the tenancy earlier than the notices already given to the tenant. Instead, I find that the landlord has simply provided evidence to support his grounds for issuing the tenant with a notice to end tenancy for cause which this hearing is not intended to deal with. The landlord stated in his written submissions that the proposed new owner is concerned that the tenant will trash the property. However, there is insufficient evidence provided by the landlord to show that there is a significant risk to the property by the tenant as this is a concern of the new owner and not the landlord for which there is no convincing and supporting evidence.

There are more suitable remedies available to the landlord under the *Act* using the notices that have already been issued. The tenant is cautioned as to her obligations under section 26 of the *Act*, which states that a tenant is responsible for paying rent whether or not the landlord complies with the *Act*.

### Conclusion

For the above reasons, I dismiss the landlord's 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: November 05, 2013

