



# 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 for an order of possession. The landlord seeks an early end to the tenancy. The landlord participated in the conference call and gave affirmed evidence. The tenants did not participate.

The landlord said she served the tenants with the Notice of a Dispute Resolution hearing and Landlord's Application for Dispute Resolution by registered mail on December 17, 2013. The landlord provided a photocopy of the Canada Post receipt with tracking number. Section 90 of the Act determines that documents served in this manner are deemed to have been received five days after service. The tenants cannot avoid service by failing to pick up registered mail at the post office.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession?

### Background and Evidence

The landlord testified that the adult male tenant assaulted, yelled, and swore at her on October 13, 2013. She said he came to her front door and, when she opened the door, charged at her, body-checked her, blew cigarette smoke in her face and yelled at her. She said she was terrified, and went to stay at her parents' house for the night.

The landlord testified that the tenants did not pay rent for December. Accordingly, she served the tenants with a Notice to End Tenancy for Unpaid Rent or Utilities on December 2, 2013 by posting the Notice on the tenants' door. Section 90 of the Act provides that because the Notice was served by posting it on the tenants' door, the tenants are deemed to have received the Notice three days later on December 5, 2013.

The landlord gave evidence that the tenants have not paid rent for December 2013 or January 2014.

The landlord testified that the adult male tenant yelled, swore, assaulted, and threatened her on December 9, 2013. She said he yelled and swore at her, chest-bumped her, told her he would not pay her a penny in rent, and threatened to kill her. She called the RCMP who attended the residence. The landlord testified that he again swore at her and threatened to kill her on December 24, 2013. The RCMP attended again, and spoke to the tenants.

The landlord testified that the tenants have further harassed her by kicking at the laundry room door when she is in the shared laundry room, by kicking at her front door, by turning off circuit breakers controlling the power to her portion of the residence, and by tampering with the furnace. She said the tenants continue to smoke cigarettes and marijuana on the property and to maintain a pet, both in breach of the tenancy agreement.

The landlord testified that she and her daughter are anxious and unable to sleep because of the stress of conflict with the tenants.

### Analysis

The landlord applies to end the tenancy early, pursuant to Section 56 of the Act. I am satisfied that the landlord is entitled to end the tenancy early, based on the landlord's evidence that the adult male tenant physically assaulted her and threatened to kill her. This behaviour constitutes significant interference with or unreasonable disturbance of the landlord, and seriously jeopardizes the health or safety or a lawful right or interest of the landlord. It would be unreasonable or unfair to the landlord to wait for notice to end the tenancy under Section 47, because of the severity of the tenant's actions.

In any event, I accept the landlord's undisputed evidence and I find that the tenants did not pay the rental arrears and did not apply to dispute the Notice to End Tenancy, and are therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

I grant the landlord an order of possession which must be served on the tenants. Should the tenants fail to comply with the order, it may be filed for enforcement in the Supreme Court.

Conclusion

I grant the landlord an order of possession.

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: January 06, 2014