



# 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 requested an Order of possession based on an early end of the tenancy and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present affirmed oral testimony and to make submissions during the hearing.

### Preliminary Matters

The landlord made 3 separate evidence submissions to the Residential Tenancy Branch (RTB.) The tenant confirmed receipt of some photographs and some of the documents submitted to the RTB. The landlord said that all documents had been given to the tenant by placing it on her door on May 23, 2014. Given the disputed testimony I determined that any documents the landlord wished to reference during the hearing could be entered as oral testimony, if the tenant did not have the document before her. At no time during the hearing was any document referred to other than the statement supplied by the landlord with the application and the 1 page of tenancy agreement.

Throughout the hearing the interpreter provided translation for the landlord. As the tenant testified, breaks were taken to allow interpretation. The landlord was given every opportunity to provide testimony through the interpreter.

### 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?

### Background and Evidence

The tenancy commenced in October 2013; rent is due on the 1<sup>st</sup> day of each month. A security deposit in the sum of \$425.00 was paid.

The landlord lives in the upper portion of the home; the tenant in the lower. The parties share laundry facilities.

The landlord provided a written statement in relation to an alleged incident that occurred on May 18, 2014. At the start of the hearing the statement was read aloud. The landlord submitted that she entered the laundry room and the tenant came into the room and began to scream at the landlord, telling the landlord not to enter the room when the tenant was there. The tenant then pushed the landlord against the washing machine and continued to yell. The landlord's daughter then came into the laundry room. The tenant turned toward the daughter, pushed her and told her not to enter her rental suite when the tenant was not home. The tenant then said "*I will kill you bitch...Get out.*" The landlord and her daughter then left the room. The next day the landlord went to see her doctor to obtain medication, as she was so stressed by what had occurred.

The landlord's daughter testified that on May 18, 2014 she was in the house and could hear loud voices in the laundry room, so she went to see what was happening. She could hear the tenant screaming at her mother. When she entered the laundry room the tenant turned toward her and threatened her. The daughter took her mother's hand and left the room.

The tenant said that she and her 7 year old daughter did enter the laundry room on May 18, 2014. The tenant found the landlord throwing the tenant's clothes from the washing machine and dryer onto the floor. The landlord was yelling at the tenant; telling the tenant that it was her unit and she needed to use the laundry. The landlord's daughter then entered the laundry room and asked if she should call the police. The tenant said yes, as she believed she was being threatened. The tenant thinks the daughter said she would call the police, in an attempt to intimidate the tenant. The landlord's daughter left the room and then returned; at which point the tenant said the daughter threatened her by saying "*I am going to kill you one day bitch.*"

The tenant said that during the incident no one was pushed. The tenant said that the landlord does not understand boundaries. The tenant immediately starting packing and does wish to vacate.

The tenant did not immediately call the police as she did not want to have the situation escalate. Once the tenant received the notice of hearing, given to her on May 21, 2014 she did contact the police to explain what had happened. The tenant and her daughter then went to the police detachment and gave recorded statements to an officer. The tenant said that the landlord is entering her suite without permission and that after finding some photographs for this hearing, that were left on a table in the suite, she again called the police. The police officer who had initially dealt with the issue was not

in; the tenant was advised by a different officer to proceed as if this was a tenancy matter.

The landlord stated that after May 18, 2014 the tenant came to their door asking if her deposit could be applied to rent owed and that she offered to vacate by June 15, 2014. The tenant offered to settle everything. The tenant said she wants to be able to remain, in peace, until she can locate a new home. The parties confirmed that written notice or a mutual agreement to end the tenancy has not been issued.

The tenant said that the incident that occurred on May 18, 2014 caused her daughter a great deal of stress and they are receiving weekly calls from victim services.

The landlord denied having entered the unit and said she is extremely stressed and feels she cannot leave her home. The landlord said the tenant came to their door on June 1, 2014 and yelled at her husband; the tenant said she went to the door to ask the landlord to stop entering her unit and to ask them to stop the harassment.

### 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 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 considered the evidence, I find that the landlord has not met that burden.

Section 56 of the Act provides, in part:

### **Application for order ending tenancy early**

**56** (1) *A landlord may make an application for dispute resolution to request an order*

*(a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [landlord's notice: cause], and*

*(b) granting the landlord an order of possession in respect of the rental unit.*

*(2) The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,*

*(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;... 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.***

(Emphasis added)

I have considered the fact that the landlord did not contact the police to report the May 18, 2014 incident and find the absence of a report fails to support the submission that the landlord felt so threatened she could not leave her home and that she felt her safety had been seriously jeopardized.

In the circumstances before me, I found the version of events provided by the tenant to be highly probable given the conditions that existed on May 18, 2014. In the absence of any police report made by the landlord I find that the altercation describe does not meet the standard required to end a tenancy. It was the tenant who contacted the police. Further, the landlord did not mention that the tenant's young daughter witnessed the altercation. The landlord's daughter, when describing the conflict, failed to state that she had been pushed by the tenant; yet the landlord's written statement indicated that the daughter had been pushed; this would have been a critical aspect of the daughter's testimony but was omitted. I found the omission by the daughter contributed to a lack of consistency in her account of the incident.

From the evidence before me I find that the nature of the May 18, 2014 conflict appears to have been somewhat mutual rather than a situation where the tenant alone caused any significant disturbance. The tenant was upset, as she submits the landlord was throwing her laundry on the floor; which the landlord did not deny. The landlord did obtain a prescription the next day, but there was no evidence before me confirming the reason this medication was issued; other than the landlord's testimony that the tenant's behaviour caused her to obtain the medication. I gave this the same weight as if the tenant had also obtained medication. The tenant has also expressed concern that she and her daughter have been stressed by the situation.

Therefore, in the absence of sufficient cause to end the tenancy, I find that the application is dismissed. The tenancy will continue until it is ended in accordance with the legislation.

Conclusion

The application is dismissed.

The tenancy will continue until it is ended in accordance with the Act.

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 11, 2014

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Residential Tenancy Branch

