



# 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 convened by the landlord's Application for Dispute Resolution for an early end to the tenancy with Order of Possession and to recover the filing fee.

The hearing was conducted via teleconference and was attended only by the landlord and by their witness. The tenant did not attend. The landlord testified he personally served the tenant with the Notice of Hearing documentation and their evidence on August 23, 2014. I accept the tenant was served in accordance with the requirements of the *Residential Tenancy Act (Act)* for the purposes of this hearing. The landlord was given full opportunity to be heard, to present evidence, a witness, and to make submissions.

### **Issue(s) to be Decided**

Is the landlord entitled to an Order of Possession pursuant to Section 56 of the *Act*?

### **Background and Evidence**

The following is undisputed. The tenancy is 1 of 2 in the basement of the home occupied upstairs by the landlord. The tenant still resides in their unit. On July 23, 2014 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause which the tenant subsequently filed to dispute and set for September 24, 2014. The landlord testified that soon after being notified of the hearing date the tenant's conduct and behaviour in and about the residential property has escalated with threats toward the landlord's family and the other tenant, verbal aggression and profanity, loud behaviour and loud music and banging on the landlord's door. The landlord testified that Police have intervened on 3 occasions, for which they provided 3 Police incident numbers. The landlord testified that Police advised him to end the tenancy as the tenant was clearly in mental distress. The landlord testified that as a result, his family is very fearful of the tenant. The landlord described an incident in which the tenant refused to turn down their music and increased it shaking the upstairs floor and scaring his 4 children – 2 ½ to 13 of age. They also described one of several nights that the tenant was "screaming all night long" and talking loudly on the phone – leaving the

landlord's family awake and feeling afraid. The tenant has repeatedly told the landlord to be fearful as, "You are going to get it".

The landlord's witness - a separate tenant of the basement - testified that he has witnessed and heard the respondent behaving crudely toward the landlord with profanity and threatening language and crude hand gestures. The witness testified that the female landlord appeared at their door one day with a look of fear asking the witness to "save me, save me" following a disturbing interaction with the respondent – resulting in Police attendance. The witness also testified that he has overheard the respondent talking loudly on the phone telling someone that they would, "fix everyone around them (me)", which the witness thinks includes himself. They also overheard the respondent describing how they would harm the landlord, which included threats to castrate the landlord. The witness agreed with the landlord that they too are fearful of the respondent as their behaviour has escalated and as a result they look for ways to secure themselves or stay away from the residential property.

Both the landlord and their witness testified that the situation has not at all improved since the landlord filed their application on August 21, 2014. They both state they live in fear of the respondent as the respondent continues to be confrontational almost daily and they are fearful the circumstances could become tragic.

### **Analysis**

**Section 56** of the *Act* allows a landlord to request an end to a tenancy and for an Order of Possession if the landlord has cause to end the tenancy and that 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 to be effective or deemed effective.

Based on the evidence provided, I find the landlord has established the tenant has

- *significantly interfered with or unreasonably disturbed another occupant or the landlord, and*
- *seriously jeopardized the health or safety or lawful right of another occupant or the landlord..*

I find that the circumstances in this matter establish that it would be unreasonable and unfair to the landlord and other occupant of the residential property to wait for a Notice to End tenancy issued under Section 47 to take effect.

I find that the tenancy will end as of this date. The landlord is entitled to an **Order of Possession**. The landlord is further entitled to recover their filing fee for this matter.

### **Conclusion**

**I Order** that the tenancy will end and I grant the landlord an **Order of Possession**

effective **two days after service on the tenant**. This Order must be served on the tenant, and, if necessary, may be filed in the Supreme Court and enforced as an Order of that Court.

**I Order** that the landlord may retain \$50.00 of the tenant's security deposit in satisfaction of their filing fee.

**This Decision is final and binding on both parties.**

*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: September 09, 2014

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Residential Tenancy Branch

