



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Capital Properties  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ET

### Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking an order ending the tenancy earlier than the tenancy would end if a notice to end the tenancy were given under section 47 of the Act.

The landlord, his witnesses, and the tenants attended the telephone conference call hearing.

The evidence was discussed and the tenants confirmed receiving the landlord's evidence.

The parties were provided the opportunity to present evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, respond to the other's evidence, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

### Issue(s) to be Decided

Should the tenancy end early and an Order of Possession be granted to the landlord?

### Background and Evidence

The undisputed evidence shows that this tenancy began on June 1, 2014, for a monthly rent of \$660.

In support of their application, the landlord testified that the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord, has put the landlord's property at significant risk, and engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of the landlord.

In explanation, the landlord submitted that from the beginning of the tenancy, the landlord has had significant issues with the tenants, including a steady stream of traffic in and out of the rental unit at all hours of the day and night, presumably due to buying and selling of illegal drugs, leaving garbage and debris all over the parking lot and hallways in the residential property, a multi-unit and story apartment building, and tampering with the electrical system.

The landlord submitted that other tenants in the building have been complaining to him about the tenants' behavior, and that they are fearful for their safety, due to the illicit acquaintances of the tenants. According to the landlord, he has called the police to the residential property at least twice a week since the tenants moved in.

In response to my question, the landlord confirmed that they have issued the tenants a 1 Month Notice to End Tenancy for Cause (the "Notice"), which was dated and delivered by personal service to tenant DD on July 25, 2014, listing an effective move-out date of August 31, 2014.

The landlord confirmed further that the reason he has not sought enforcement of the Notice was due to the tenants' promise to vacate the premises, which they have not yet done. The landlord further stated that he believed he would not get a hearing until November had he filed an application for dispute resolution seeking enforcement of the Notice, which appears to be uncontested by the tenants.

The landlord's relevant documentary evidence included, but was not limited to, a copy of the Notice, witness statements, with the predominant one from witness GJ, dated July 2, 2014, black and white copies of photographs of the rental unit, and the written tenancy agreement.

*Witness GJ-*

The witness stated that she lives in a rental unit across the hall from the tenants and that since the day the tenants moved in, living in her rental unit has become like a "nightmare," with the amount of traffic in and out of the tenants' rental unit, with the fist fights occurring, and the yelling and screaming of the tenants and their acquaintances.

The witness submitted further that she was accosted by a friend of the tenants outside the front door.

The witness submitted that she believed that drug activity was taking place in the tenants' rental unit and that she has called the police.

*Witness LM-*

The witness submitted that she lives on the floor below the tenants, and that due to all the noise and traffic caused by the tenants, she is moving from the residential property at the end of October 2014.

The witness stated from the day the tenants moved in, she has heard windows being smashed, yelling and screaming, making life at the residential property unbearable.

*Tenants' response-*

The tenants denied the allegations of the landlord and his witnesses, saying that they do not buy or sell drugs. The tenants submitted further that they also have been the victims of crime, as the area they live in is a high crime area.

Tenant DD submitted that he has turned his friends away from the residential property and that they have been victims of home invasions.

Analysis

Section 56 of the *Act* is an extraordinary remedy which grants the Director authority to end a tenancy without a notice of end tenancy if sufficient cause is established and the landlord demonstrates that it would be both unfair and unreasonable to allow the tenancy to continue until a one month Notice to End Tenancy under section 47 would take effect.

I deny the landlord's application as I find that the landlord has not met the test required under section 56 of the *Act* to end this tenancy early.

I find that all the stated reasons for an early end to the tenancy brought forward by the landlord were addressed by the landlord's issuance of the Notice under section 47 of the *Act*, served on the tenants on July 25, 2014. The landlord's remedy would then be to file an application for Dispute Resolution based on this Notice.

In reaching this conclusion, I was also influenced by the landlord's confirmation that he believed he would be scheduled an earlier hearing on an application for an early end to the tenancy, rather than had he filed seeking enforcement of the Notice.

I also considered and was influenced by the witness' testimony showing that the alleged disturbing activities have been ongoing for several months, which I find shows the lack of an urgent nature of the activity as claimed by the landlord.

Additionally, I find the landlord has failed to prove the nature of the police activity as it directly relates to the conduct of the tenants, or the results of any police investigation. The landlord was at liberty to apply for a summons to obtain police reports or an officer's attendance.

Due to the above, I find the landlord has not provided any compelling evidence or reasons to demonstrate that it would be unreasonable or unfair to the landlord to wait for a notice or hearing for Dispute Resolution under section 47 to take effect. As a result, I dismiss the landlord's application, without leave to reapply.

### Conclusion

I have dismissed the landlord's application without leave to re-apply as I have determined that the landlord has not demonstrated that it would be unfair or unreasonable for the landlord to wait for a notice to end tenancy to take effect under sections 47 of 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: October 21, 2014

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Residential Tenancy Branch

