



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes            ET, FF

### Introduction

This matter dealt with an application by the Landlord for an Order of Possession, for an early end to the tenancy and to recover the filing fee for this proceeding.

The Landlord said he served the Tenants with the Application and Notice of Hearing (the "hearing package") by personal delivery on August 4, 2015. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded with both parties represented.

### Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy early?

### Background and Evidence

This tenancy started on March 15, 2013 as a month to month tenancy. Rent is \$1,100.00 per month payable in advance of the 15th day of each month. The Tenant said they paid a security deposit of \$550.00 on March 15, 2013 and the Landlord said no security deposit was paid.

The Landlord said there have been two other hearings regarding this tenancy. In one of the hearings an Order of Possession was previously issued, but the Landlord and the Tenants agreed not to end the tenancy. The Landlord said that now a number of things have happened and he has applied for an early end to the tenancy. The Landlord said the Tenants have been late on paying the rent on a number of occasions, the Tenants have over used the septic system and the male Tenant pointed a knife at him in a threatening way. The Landlord said the police were called but he was told there was not enough evidence to support any charges. The Landlord said June 4, 2015 he was working on the septic system at the rental unit and the Tenants came over and started to verbally abuse him. As well the Landlord said he asked the male Tenant if he could use his knife and the male Tenant handed the knife to him in a threatening way. The Landlord said he was very concerned for his safety. As well the Landlord said he has had trouble sleeping because of this incident and his Doctor said he is suffering from anxiety.

The Landlord said he wants to end this tenancy for late rent payments, over use of the septic system and because he felt threatened by the male Tenant when he borrowed the Tenant's knife. The Landlord also said the female Tenant shouted at him and was very abusive to him.

The Tenants' Advocate said the Landlord has the burden of proving that the male Tenant threatened him with a knife and that the other things the Landlord is claiming; late rent payments and over use of the septic system do not fall under section 56 of the Act (application for an early end to tenancy). Therefore those two reasons should be excluded from the application. Further the Advocate said the Landlord asked the male Tenant for the knife and so the Tenant handed the knife over to the Landlord to complete a task as part of fixing the septic system. The Advocate said the male Tenant only did what he was asked and he did not threaten the Landlord.

The male Tenant said the Landlord asked to borrow his pocket knife and he took it out of his pocket opened it and passed it to the Landlord "but" end first. The male Tenant said the Landlord returned the knife to him after the Landlord was finished with it. The male Tenant said he did not threaten the Landlord with the knife.

The Landlord agreed that he asked to borrow the knife and he did return the knife, but he said the male Tenant pointed the blade at the Landlord's stomach before handing it to the Landlord.

The Landlord said he did not have any corroborative evidence to support his claims and he did not have any witness to testify to support his claims.

The Advocate said one of the witnesses the Landlord referred to in his claim submitted an Affidavit saying the male Tenant did not threaten the Landlord and he supports the Tenants version of the incident.

In closing the Tenants' Advocate said the Landlord has not met the burden of proving his claims and therefore his application should not be successful.

The Landlord said in closing that he will stand on his written statement of what happened.

### Analysis

Section 56 of the Act says a Landlord may make an application to request an order to end a tenancy early if the Tenant significantly interfered with or unreasonable disturbs other occupants or the landlord, seriously jeopardizes the health or safety of other occupants or the landlord, put the landlord property at significant risk, jeopardizes the lawful right of other occupants, caused extraordinary damage to the property or that it would be unreasonable or unfair for a landlord or other occupant to wait for a notice to end tenancy.

It is apparent from the testimony and evidence that there are issues between the Tenants and the Landlord. Section 56 of the Act uses language which is written very strongly and it's written that way for a reason. A person cannot be evicted simply because another occupant has been disturbed or interfered with, they must have been **unreasonably** disturbed, or **seriously** interfered with. Similarly the landlord must show that a tenant has **seriously** jeopardized the health or safety or lawful right or interest of the landlord or another occupant, or put the landlord's property at **significant** risk. Or that it would be **unfair** for a landlord or other occupant to wait for a notice to end tenancy.

First, I find that the Landlord's reasons for an early end to tenancy for late rent payments and over use of the septic system do not fall under section 56 of the Act and therefore are excluded from this application. The Landlord may reapply after issuing a 1 Month Notice to End Tenancy for Cause if the Landlord believes these reasons are sufficient to end the tenancy.

Further the Landlord has not provided any corroborative evidence to support his claim that the male Tenant threatened him with a knife. The Landlord and Tenant have different accounts of the incident. The Tenant said the Landlord borrowed his knife for a task and the Landlord said when he borrowed the Tenant's knife the Tenant threatened him with it. As well the Tenant provided a witness affidavit that says the Tenant did not threaten the Landlord. Given that the Landlord has not provided any corroborative evidence; I find the Landlord has not met the burden of proving the Tenants have threatened him. I find that the reasons given for an early end to the tenancy have not reached the level of **unreasonableness, significance, seriousness or unfair** required by section 56 of the Residential Tenancy Act. I find that the Landlord has not established grounds to establish cause for an early end to the tenancy, consequently I dismiss the Landlord's application for an early end to tenancy.

As the Landlord has been unsuccessful in this matter I order the Landlord to bear the \$50.00 filing fee for this application which they have already paid.

### Conclusion

The Landlord's application for an early end to tenancy is dismissed without leave to reapply.

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: August 31, 2015

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Residential Tenancy Branch

