



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes            ET

### Introduction

On June 13, 2016, the Landlord submitted an Application for Dispute Resolution for an early end of tenancy. The Landlord attended the teleconference hearing; however, the Tenant did not. The Landlord testified that he served the Tenant with the Application for Dispute Resolution and Notice of Hearing, by registered mail sent on June 16, 2016. A Canada Post tracking number was provided as evidence of service. I find that the Tenant has been duly served in accordance with section 89 the *Act*.

The Landlord stated that he sent the Notice of Hearing and his evidence to the Tenant at the address of the rental unit by registered mail but the documents were returned to him by Canada Post as unclaimed.

Section 90 of the *Act* states that a document given or served in accordance with section 89 is deemed to be received on the 5<sup>th</sup> day after it is mailed. I find that the documents were deemed received by the Tenant on June 21, 2016.

The Landlord was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions at the hearing.

### Issues to be Decided

Does the Landlord have cause to end the tenancy early?

### Background and Evidence

The Landlord testified that the tenancy began in the spring of 2012. Rent in the amount of \$926.00 is payable on the first of each month. The Tenant paid a \$450.00 security deposit to the Landlord.

The Landlord testified that around May 15, 2016, he notified the Tenant that he would be coming to repair the roof of the rental unit. He also testified that he called the Tenant the day before to remind the Tenant that he would be arriving early in the morning. The Landlord stated that when he arrived at the rental property he had to wake the Tenant up to move his vehicles to make room for the roofing materials and garbage bin. The Landlord stated that the Tenant was very unhappy about being awoken.

The Landlord stated that he was standing in front of the Tenant when the conversation got heated and the Tenant began to yell at him that this is his home. The Landlord stated that the Tenant moved closer and hit him in the chest with his two hands knocking the Landlord back. The Tenant testified that he called the Police and the Tenant went back into the rental unit.

The Landlord testified that he did not feel safe talking to the Tenant, so he packed up his supplies and left the property.

The Landlord testified that the police advised him to get statements from witnesses. The Landlord has provided documentary evidence of written statements from three witnesses that state on May 28, 2016, the Tenant put both hands on the Landlord and forcefully pushed him.

A witness for the Landlord A.C. provided affirmed testimony that the Tenant pushed the Landlord.

The Landlord testified that the Police have forwarded assault charges to Crown Counsel.

The Landlord seeks an early end to the tenancy and requests an order of possession.

Section 56 of the *Act* states that a Landlord may make an application for dispute resolution to request an order to end a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 and granting the Landlord an order of possession in respect of the rental unit. If an order is made under this section, it is unnecessary for the Landlord to give the Tenant a notice to end the tenancy.

Under section 56 of the *Act*, the director may end a tenancy and issue an order of possession only if satisfied, in the case of a Landlord's application, the Tenant or a person permitted on the residential property by the Tenant has done any of the following:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
- put the landlord's property at significant risk;
- engaged in illegal activity that has caused or is likely to cause damage to the landlord's property,
- has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or
- has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- caused extraordinary damage to the residential property, and
- 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 to take effect.

The Landlord requested that if his application is successful, he would like the order of possession to be effective on July 31, 2016.

### Analysis

Based on the evidence before me, the testimony of the Landlord and the witness, and on a balance of probabilities, I find that the Tenant assaulted the Landlord by pushing him backwards.

I find that the Tenant seriously jeopardized the health or safety of the Landlord. The tenancy is ending.

I find that the Landlord is entitled to an order of possession, pursuant to section 56 of the Act, after service on the Tenant. Following the request of the Landlord, the Order of Possession is effective at 1:00 pm on July 31, 2016. This order may be filed in the Supreme Court and enforced as an order of that Court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

#### Conclusion

The Tenant seriously jeopardized the health or safety of the Landlord. The tenancy is ending.

The Landlord is granted an order of possession effective at 1:00 pm on July 31, 2016.

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: July 07, 2016

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Residential Tenancy Branch