



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes

ET

### Introduction

On November 8, 2016, the Landlord submitted an Application for Dispute Resolution for an early end of tenancy. The matter was scheduled as teleconference hearing. The Landlord attended the hearing; however, the Tenant did not.

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

### Preliminary and Procedural Matters

Section 56 of the Act states that if an order is made under this section, it is unnecessary for the Landlord to give the Tenant a notice to end the tenancy.

The Landlord provided a sworn Affidavit from a process server K.S. that states the process server attempted to personally serve the Tenant with a true copy of the Notice of Hearing and attachments at the dispute address on November 12, 2016.

The Affidavit states that the process server attempted service on November 12, 2016, at 9:05 am; 11:30 am; and 2:45 pm. The Affidavit states that voices could be heard in the residence and someone looked out of the top floor window but there was no response.

The Affidavit states that a true copy of the Notice of Dispute Resolution Hearing and attachments were posted to the front door of the dispute address and a photograph of the posted documents was taken.

The Landlord has provided a copy of photographs showing documents posted to the door of the dispute address.

During the hearing a person named D.L. called into the hearing. D.L. stated that the Notice of Hearing was found attached to the door of the rental unit. D.L. stated that she is the roommate of the Tenant D.W. who is upstairs sleeping. D.L. stated that she paid rent money to D.W. and discovered that D.W. did not pay the rent. D.L. stated that she contacted a person named Mark who told her she could enter into a tenancy agreement for the rental unit. D.L. testified that she never signed a written agreement with Mark.

The Landlord testified that she does not know who D.L. is and that she never agreed to enter into a tenancy agreement with D.L. The Landlord testified that she never had any conversation with her agent M.W. regarding a tenancy with D.L.

I find that there is no tenancy agreement between the Landlord and D.L.. I find that D.L. is not a tenant, but rather she is an unauthorized roommate of the Tenant. As such, D.L. does not have the rights of a Tenant under the Act, and she was dismissed from the hearing.

I find that the Tenant was served with the Notice of Hearing and evidence in accordance with sections 89 and 90 of the Act and failed to participate in the hearing.

#### Issues to be Decided

- Does the Landlord have cause to end the tenancy early?

#### Background and Evidence

The Landlord testified that the Tenant D.W. contacted her and asked to rent the rental unit. The Landlord testified that she allowed the Tenant to move into the rental unit early, prior to receiving any rent or security deposit from the Tenant. The Landlord testified that the Tenant moved in on July 15, 2016, and the Landlord has not received any rent money or security deposit from the Tenant.

The Landlord testified that the tenancy began on July 15, 2016, as a month to month tenancy. Rent in the amount of \$900.00 is payable on the first of each month. The Tenant was to pay a \$450.00 security deposit to the Landlord.

The Landlord testified that a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities was posted on the door of the rental unit by her agent M.W.

The Landlord's agent reported to the Landlord that he attended the rental unit and found that approximately 15 -20 were now living in the house.

The Landlord provided a copy of a letter from her agent M.W. summarizing his involvement with the rental property in September 2016. The letter indicates that the agent attended the residential property on September 1, 2016, and found the front door to be kicked in and broken. He indicates there was damage and holes in the walls behind the stairs. He indicates there were approximately five people laying half-conscious in the living room and he spotted a used syringe lying in the flower bed by the front door. He identified a woman named D.W. who provided identification.

The Landlord provided a photocopy of D.W.'s identification.

The letter from M.W. states that on September 10, 2016, he stopped by the property and found the front door to be wide open. He observed additional damage as there was now a hole through the front door. He was informed by an occupant that D.W. was no longer a resident of the unit. He indicates the conversation turned tense and he left in fear of his safety.

The letter from M.W. states that on September 18, 2016, he stopped by the property and observed the front door open and people were coming and going at random. He observed approximately 20 people sitting and laying on the floor. He observed needle, and marijuana pipes on a table. He indicates there was additional damage to the unit as there were more holes in the walls and the front door had more damage.

The Landlord provided an email dated, September 19, 2016, from the strata council of the residential property stating that complaints have been received regarding the rental property. The email states that the RCMP have attended the rental unit several times in the past few weeks, and the police had to use tasers on the people who were there.

The Landlord stated she did not pursue an order of possession based on the 10 Day Notice because she was concerned that she would not be able to prove service of the Notice. The Landlord has safety concerns about attending the residence. The Landlord seeks an early end to the tenancy and requests an immediate order of possession.

### Analysis

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.

Based on the evidence above, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenant is responsible for extraordinary damage to the rental unit. I find that the Tenant has put the Landlord's property at significant risk 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.

Therefore, I am ordering that the tenancy will end immediately.

I find that the Landlord is entitled to an order of possession, effective one day after service on the Tenant pursuant to section 56 of the Act. 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 has seriously jeopardized the health or safety or a lawful right or interest of the Landlord by allowing activity that puts the property at risk and causing extraordinary damage to the rental unit, 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 tenancy is ending immediately.

The Landlord is granted an order of possession effective one (1) day after service on the Tenant.

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: December 08, 2016

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Residential Tenancy Branch