



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET, FF

### Introduction

This hearing was scheduled to convene at 1:00 p.m. this date by way of conference call concerning an application made by the landlord for an early end of the tenancy without the necessity of serving a notice to end the tenancy upon the tenant, and for an order recovering the filing fee from the tenant for the cost of the application.

The landlord attended the hearing and gave affirmed testimony, however the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call. The landlord testified that he served the tenant on July 20, 2017 with the Landlord's Application for Dispute Resolution and notice of this hearing personally but the tenant refused to accept it. The landlord taped it to the door of the rental unit. I accept the undisputed testimony of the landlord and I find that the tenant has been served in accordance with the *Residential Tenancy Act*.

### Issue(s) to be Decided

Should the landlord be granted an Order of Possession without the necessity of serving the tenant with a notice to end the tenancy in the approved form?

### Background and Evidence

The landlord testified that this month-to-month tenancy began on April 6, 2017 and the tenant still resides in the rental unit. Rent in the amount of \$700.00 per month is payable on the 1<sup>st</sup> day of each month. The rental unit is an upstairs suite in a house containing 3 other rental units, all of which are currently tenanted, and the landlord does not reside on the property. The rental unit includes some furnishings, and a copy of the tenancy agreement has been provided for this hearing.

The tenant failed to pay any rent for June or July, 2017 and the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities by posting it to the door of the rental unit on July 7, 2017 with a witness present. A copy has been provided for this hearing and it is dated July 7, 2017 and contains an effective date of vacancy of July 17, 2017 for unpaid rent in the amount of \$1,400.00 that was due on June 1 and July 1, 2017. A Proof of Service document has also been provided for this hearing signed by the landlord and the witness. The tenant has not paid the rent and is currently in arrears the sum of \$2,100.00 for June, July and August, 2017.

The landlord attempted to obtain an Order of Possession for unpaid rent by way of the Direct Request process, however the tenant disputed the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and served the landlord with a notice of hearing which is scheduled for September 27, 2017 at 9:00 a.m.

On or about July 17, 2017 another tenant called the landlord saying it sounded like the tenant was using a power saw in the rental unit. The landlord drove there and saw the tenant on the street. The landlord stopped his vehicle, asked the tenant about the unpaid rent and said it sounded like the tenant was destroying the apartment. The tenant started yelling, using foul language and the landlord asked him to return to the rental unit to talk. When the landlord turned around, the tenant kicked the landlord in the back of the leg causing it to hemorrhage. The tenant continued to kick the landlord while he was down and eventually the landlord regained his ground and managed to call police. Another tenant had already called. The tenant was ranting and raving and went after police, and the police had some difficulty subduing the tenant and getting handcuffs on him. The landlord was passing out and was taken to hospital in an ambulance.

Police visited the landlord in hospital and told the landlord they had gone into the rental unit and reported that it appeared as though the tenant had cut up the furniture in the rental unit. A letter from a neighbouring tenant has also been provided for this hearing. The landlord has not returned, and seeks an Order of Possession without the necessity of serving another notice to end the tenancy and waiting for the date that it takes effect, and without the necessity of waiting for the hearing on September 27, 2017.

The landlord believes the tenant was angry about being served with the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

### Analysis

The *Residential Tenancy Act* specifies in what way a tenancy ends. Section 56 describes a landlord's right to apply for an Order of Possession ending the tenancy earlier than a notice to end the tenancy would take effect:

**56** (1) A landlord may make an application for dispute resolution to request an order

(a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and

(b) granting the landlord an order of possession in respect of the rental unit.

(2) The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,

(a) the tenant or a person permitted on the residential property by the tenant has done any of the following:

(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;

(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;

(iii) put the landlord's property at significant risk;

(iv) engaged in illegal activity that

(A) has caused or is likely to cause damage to the landlord's property,

(B) 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

(C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;

(v) caused extraordinary damage to the residential property, and

(b) 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 [*landlord's notice: cause*] to take effect.

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

I accept the undisputed testimony of the landlord that the tenant assaulted the landlord and has or is likely to damage the landlord's property. If the landlord is not able to attend to the rental unit, not able to collect rent and if asking for rent is enough to set off the tenant in such a fashion, the tenant is in breach of the *Act*. I am satisfied in the circumstances that the tenant has:

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
  - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
  - (iii) put the landlord's property at significant risk;
  - (v) caused extraordinary damage to the residential property, and
- (b) 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 [*landlord's notice: cause*] to take effect.

I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee, and I hereby grant a monetary order in favour of the landlord in that amount.

#### Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

I hereby grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00.

This order is final and binding and may be enforced.

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 09, 2017

---

Residential Tenancy Branch