



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET

### Introduction

This hearing dealt with a landlord's application for an order to end the tenancy early and obtain an Order of Possession pursuant to section 56 of the Act. The tenant did not appear at the hearing. The landlord testified that the hearing package and evidence were sent to the tenant via registered mail on August 31, 2017. The landlord provided a registered mail receipt, including tracking number, as proof of service. I was satisfied the tenant was duly notified of this proceeding and I continued to hear from the landlord without the tenant present.

At the outset of the hearing the landlord stated that she believes the parties have reached a mutual agreement to end the tenancy effective October 16, 2017 as alternative housing has been found for the tenant; however, the tenant has not yet signed the documents necessary to reflect this agreement. Accordingly, the landlord stated that she continues to seek an Order of Possession by way of this proceeding in the event the tenant changes his mind with respect to the mutual agreement.

In light of the above, and in the absence of the tenant at the hearing to confirm a mutual agreement has been reached, I informed the landlord that in order to obtain an Order of Possession she must demonstrate an entitlement to an Order of Possession under section 56 of the Act. The landlord indicated that she was prepared to do so and I continued to hear from the landlord to determine whether the landlord is entitled to the remedy applied for.

### Issue(s) to be Decided

Has the landlord demonstrated that the tenancy should end early and the landlord should be provided an Order of Possession under section 56 of the Act?

### Background and Evidence

The tenancy started on January 28, 2017 on a month-to-month basis. The landlord collected a security deposit of \$187.50 and the tenant is required to pay rent of \$404.00 on the first day of every month. The rental unit was described as Single Room Occupancy (SRO) in a building with several SRO units. The SRO units do not have a bathroom and the tenants share common bathroom. The rental unit and a common bathroom are located in a very small corridor in the building. The landlord provides janitorial services in the corridor and the common bathrooms.

The landlord provided evidence pertaining to issues involving the tenant that go back quite some time. However, given the application is being made under section 56 of the Act, I limited the submissions to those serious events that occurred shortly before the application was made.

The landlord submitted that on July 31, 2017 the landlord's janitor, who is also a tenant in the building, was performing janitorial duties in the corridor by the rental unit. After saying hello to the tenant through the open rental unit door, the tenant became aggressive toward the janitor by shadowing him very closely in the small corridor space and talking about personal space and privacy. The landlord explained that given the small space of the corridor it is easy to become cornered. The janitor wrote an incident report and provided it to the landlord.

The landlord had written a number of letters to the tenant to remind him that the common areas are for the use of other residents and staff and that his actions must be in a non-threatening manner and that failure to do so will result in eviction. The most recent warning letter to the tenant was written August 10, 2017.

The landlord submitted that on August 15, 2017 the janitor had another encounter with the tenant in the corridor whereby the tenant cornered him. The landlord had been away on vacation at that time and did not learn of the incident until August 21, 2017. The janitor provided another incident report and informed the landlord that he could not safely perform his janitorial duties as a result of the tenant's actions. The landlord was also concerned about the janitor's safety and encouraged the janitor to contact the police. The landlord stated that a police officer did attend the property to speak with the tenant. The landlord filed this Application for Dispute Resolution shortly afterward as the landlord has an obligation to protect the safety and well-being of its residents and staff and despite numerous warnings the tenant's conduct has not improved.

The landlord requested an Order of Possession that is effective at 5:00 p.m. on October 16, 2017 as this is the date/time proposed during the parties' discussions to reach a mutual agreement to end tenancy and availability of alternative housing.

### Analysis

Section 56(2) of the Act permits the Director, as delegated to an Arbitrator, to make an order to end the tenancy early, on a date that is earlier than the effective date on a 1 Month Notice to End Tenancy for Cause had one been issued. In order to grant an order to end the tenancy early I must be satisfied that:

(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.

[My emphasis underlined]

The landlord bears the burden to prove the tenant has acted in such a way as to warrant an order to end the tenancy earlier than by way of a 1 Month Notice. The burden is high as this provision is intended to apply in severe circumstances.

Based on all of the unopposed submissions before me, I find the landlord has satisfied me that an order to end the tenancy early is warranted. I make this finding considering there were two acts of aggression directed toward the landlord's janitor and resident of the building very close together and despite numerous warnings for the tenant to cease such conduct. The landlord has a right to have janitorial staff clean the common areas free from significant interference by tenants and the landlord has an obligation to protect the safety of their staff and other residents. Therefore, I grant the landlord's request and I order the tenancy ended as of 5:00 p.m. on October 16, 2017.

With this decision I provide the landlord with an Order of Possession effective at 5:00 p.m. on October 16, 2017 to serve and enforce upon the tenant as necessary.

### Conclusion

The tenancy ends at 5:00 p.m. on October 16, 2017 and the landlord is provided an Order of Possession to serve and enforce upon 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: October 05, 2017

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Residential Tenancy Branch