



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ET, FFL

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the Act") for:

- an early end to this tenancy and an Order of Possession pursuant to section 56; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The landlord's agent and the tenant attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

While I have turned my mind to all documentary evidence, including the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The tenant acknowledged receipt of the Application for Dispute Resolution (the Application) which was personally served to them on November 23, 2017. In accordance with section 89 of the *Act*, I find the tenant has been duly served with the Application.

The landlord testified that he served an evidentiary package to the tenant with the Application. The tenant testified that she only received one piece of evidence from the landlord which is a copy of a letter from a restoration company indicating that they need the unit to be vacant to do repairs to the unit. In accordance with section 88 of the *Act*, I find that the tenant was duly served with a copy of a letter from the restoration company.

The landlord testified that they also included in their evidence a letter from the municipal fire department, a copy of an unsigned One Month Notice to End Tenancy for Cause (the One Month Notice) and witness letters regarding other complaints about the tenant.

I find that the document from the fire department only provides information regarding the replacement of a fire detector and the other evidence is related to a One Month Notice and is not relevant to the Application for an early end to tenancy. For the above reasons I will only

consider the letter from the restoration company in evidence as it is the only relevant piece of evidence related to the landlord's Application to end the tenancy early.

The tenant confirmed that they did not provide any evidence.

#### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession based on the tenant posing an immediate and severe risk to the residential premises?

Is the landlord entitled to recover the filing fee for this application from the tenant?

#### Background and Evidence

The tenant and landlord agreed that this tenancy began on July 01, 2016, with a monthly rent of \$575.00 due on the first day of the month. The landlord confirmed that they continue to retain a security deposit of \$287.50.

A copy of a letter from a restoration company dated November 08, 2017, indicating that the damage to the rental unit is a safety concern to have anybody living there until repairs are completed. The letter also states that the unit needs to have all the belongings removed in order to complete the required repairs.

The landlord testified that on October 31, 2017, the fire department was required to extinguish a fire in the rental unit which caused damage to the unit in addition to the damage from the fire. The landlord stated that the carpets need to be replaced and the walls need to be painted among other repairs to be completed due to the damage caused by the actions of the tenant.

The tenant testified that a she was charging a car battery in a bedroom in the rental unit which was touching the box spring and resulted in the mattress catching fire when the tenant and her friend were in another room. The tenant submitted that she and her friend called the fire department immediately and used fire extinguishers to contain the fire. The tenant stated that the fire department let her back in the rental unit and the tenant contended that the fire department would not have allowed her back into the unit if it was unsafe.

#### Analysis

Section 56 of the *Act* allows for a tenancy to end and an Order of Possession to be obtained on a date that is earlier than the tenancy would end if a One Month Notice was served to the tenant. An Arbitrator must be satisfied that a tenant has seriously jeopardized the health and safety or a lawful right or interest of the landlord and put the landlord's property at significant risk. The *Act* also stipulates that in such circumstances it would be unreasonable or unfair to the

landlord or other occupants of the residential property to wait for a One Month Notice to take effect issued under section 47 of the *Act*.

I have reviewed all allowed documentary evidence and affirmed testimony and I find that the tenant does not pose an immediate and/or ongoing severe risk to the residential property. I find that the tenant was negligent in charging a car battery in a manner that was unsafe which seriously jeopardized the health and safety or a lawful right or interest of the landlord and put the landlord's property at significant risk at the time of the occurrence. However, I find that the landlord has failed to sufficiently prove that there is pattern of negligent behaviour regarding the tenant and that it would be unfair for other occupants or the landlord to wait for a One Month Notice to take effect.

In the absence of any evidence to the contrary, I accept the tenant's testimony that the fire department would not have allowed her back into the rental unit if it was unsafe to do so.

For the above reasons, the landlord's Application to end this tenancy early is dismissed and this tenancy will continue until ended in accordance with the *Act*.

As the landlord has not been successful in this application, I dismiss their request to recover the filing fee from the tenant.

#### Conclusion

I dismiss the landlord's Application, 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: January 18, 2018

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Residential Tenancy Branch