



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ET FF

### 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.

Only the landlord K.D. attended the hearing. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord said that he served the tenant with his application for dispute resolution along with his evidentiary package in person on January 2, 2018. The landlord said this service was witnessed by C.M. Pursuant to sections 88, 89 & 90 of the *Act*, the tenant is deemed served with the landlord's application for dispute resolution and evidentiary package.

### Issue(s) to be Decided

Is the landlord entitled to an early end to this tenancy and an Order of Possession?

Can the landlord recover the filing fee?

### Background and Evidence

The landlord provided undisputed testimony that this tenancy began in August 2017 and a security but no pet deposit was collected at the outset of the tenancy.

The landlord argued that the tenant has been repeatedly late paying rent, that he houses a cat in contravention to the terms of his tenancy agreement, has not paid a pet deposit for the cat and has significantly interfered with the quiet enjoyment of the other occupants of the building. Specifically, the landlord said that the tenant ripped railings off the stairwell, broke the glass to the fire extinguisher, tampered with the emergency exit lights and pushed the landlord down the stairs in late December 2017. The landlord said that the RCMP was contacted but no charges were brought against the tenant for

this pushing incident. The landlord continued by explaining that the other tenants are intimidated by the tenant and the other occupants are afraid to complain because they fear retribution from the tenant. The landlord detailed noises and disturbances which have been reported by other tenants and said that he in particular is disturbed by the tenant's continued housing of a cat. The landlord said that he is allergic to cats and he fears that he will have an allergic reaction while attending the premises.

### Analysis

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an Order of Possession on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 for a landlord's notice for cause.

An application for an early end to tenancy is an exceptional measure taken only when a landlord can show that it would be unreasonable or unfair to the landlord or the other occupants to allow a tenancy to continue until a notice to end tenancy for cause can take effect or be considered by way of an application for dispute resolution.

In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that 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 interests 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;
- engaged in illegal activity that 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;
- engaged in illegal activity that 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, the tenant 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.

Based on the testimony of both parties and my review of the written evidence, I find that the landlord has failed to prove that any of the circumstances described above exist such that it would be unreasonable or unfair to the landlord or other tenants to serve the tenant with a notice to end tenancy under section 47 of the *Act* and wait for that notice to take effect.

While the landlord detailed numerous complaints and concerns with the tenant, I find that the landlord did not sufficiently explain why he could not wait for a one month notice to end tenancy to take effect. The testimony of the landlord did not demonstrate that it would be unreasonable or unfair to wait for the notice to end tenancy to come into force. I understand and appreciate the concerns which were expressed by the landlord regarding the conduct of the tenant; however, I must balance those concerns with the tenant's right to due process. The landlord may very well succeed in an application to enforce a one month notice, but I do not find that he has met the burden of proof showing that he could not wait for a one month notice to come due. For these reasons, I dismiss the landlord's application for an early end of tenancy.

As the landlord was unsuccessful in his application, he must bear the cost of his own filing fee.

### Conclusion

I dismiss the landlord's application. This tenancy will continue until ended in accordance with the *Act*.

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: February 2, 2018

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Residential Tenancy Branch