



# 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 was sent to the tenant via registered mail at the rental unit address on January 23, 2018. The landlord provided a registered mail receipt, including tracking number, as proof of service. The landlord stated the tenant did not pick up the registered mail sent to him. The landlord explained that the rental unit and the main unit in the house have separate mail slots and that the registered mail was addressed to the basement unit and the registered mail notice card was delivered to the rental unit. Section 90 of the Act deems a person to have received mail five days after mailing, even if the person refuses to accept or pick up their mail. Accordingly, I found the tenant to be deemed served with the hearing documents and I continued to hear from the landlords without the tenant present.

### Issue(s) to be Decided

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

### Background and Evidence

Pursuant to an oral agreement, the tenancy started approximately two years ago and the tenant is required to pay rent of \$850.00 on the last day of every month. The landlords occupy the main unit of the house and the tenant occupies the basement suite.

The landlords testified that on January 16, 2018 the tenant threatened to kill the landlord's grandsons after the landlord refused to fix a broken key in the lock for the rental unit. The landlords called the police and the police attended the property. The police were able to make contact with the tenant over the telephone but the tenant refused to come speak to the police in person. The landlords understand that the tenant denied threatening to kill the landlord's grandsons when questioned by the police. The landlords provided the badge number of the police officer who responded to the complaint and the file number assigned to the case by the

police. The police have checked in on the landlords since the incident and told the landlords to call them if there are any more threats or problems with the tenant's behaviour. The landlords explained that they suspect the tenant is doing drugs and they remain in fear for their safety and the safety of their family members.

### 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 landlords bear 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. This provision is intended to apply in severe circumstances; however, the burden of proof is the civil standard, which is on the balance of probabilities and not the higher criminal standard.

Based on all of the unopposed submissions before me and upon hearing from the landlords, I accept the landlord's version of events as being credible and I am satisfied that an order to end the tenancy early is warranted in the circumstances. I accept that the tenant made threats to the kill the landlord's grandsons, which is unjustifiable in any circumstance, and the seriousness of the threat meets the threshold of an 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". I further find that it would be unreasonable for the landlords to wait for a 1 Month Notice to take effect given the seriousness of the threat.

With this decision I order the tenancy is ended. I provide the landlords with an Order of Possession effective two (2) days after service upon the tenant.

### Conclusion

I have ordered the tenancy to be at an end and I provide the landlords with an Order of Possession effective two (2) days after it served upon the tenant pursuant to section 56 of 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 21, 2018

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Residential Tenancy Branch