



# 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 the application from the tenant pursuant to section 72.

Both parties were represented at the hearing by their respective agents who were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord's agent ES (the "landlord") testified that he personally served the tenant with the application for dispute resolution dated February 20, 2018 on that date in the presence of a witness. The tenant's agent RS (the "tenant") disputed service and said that the tenant was never served with the landlord's application. She testified that she was only made aware of the hearing due to an email notification from the Residential Tenancy Branch a few days prior to the hearing.

### Issue(s) to be Decided

Is the landlord entitled to an early end to this tenancy and an Order of Possession?  
Is the landlord entitled to recover the filing fee for this application from the tenant?

### Background and Evidence

The landlord testified that this tenancy began in January, 2018 and the tenant has failed to pay any rent or security deposit since moving into the rental unit. The landlord said that the tenant made payment of the monthly rent of \$3,600.00 and the security deposit of \$1,800.00 by cheques which were later returned NSF.

The landlord testified that he believes there are multiple guests going to the rental suite. The landlord gave evidence that on one occasion the tenant refused him entry to the rental suite to conduct an inspection despite having given verbal notice to the tenant several days prior. The landlord submits that the rental unit is furnished with expensive furniture and he has concerns that the tenant may sell or damage the furnishings.

### Analysis

While the tenant disputed that they were served with the landlord's application for dispute resolution personally or at all, the landlord testified that service was completed in the presence of a witness. Under the circumstances I find the landlord's evidence more credible. The landlord gave cogent testimony providing details of the personal service on the tenant at the dispute address. Based on the evidence of the parties I find that the tenant was served with the landlord's application for dispute resolution in accordance with section 89 of the *Act*.

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.

The landlord gave evidence that the tenant has failed to pay the security deposit and monthly rent. The landlord testified that they believe the tenants may sell or damage the furniture in the rental unit but provided little evidence in support of their suspicion. The landlord's testimony that there is a skateboard ramp adjacent to the rental building, that garbage has not been thrown out or that there is a broken gate lock are not sufficient to find that there is a significant risk to the property.

Based on the evidence submitted by the parties I find, on a balance of probabilities that the landlord has not shown that the tenant's actions or negligence has given rise to a reason for this tenancy to end. Additionally, I find there is insufficient evidence to conclude that it would be unreasonable to wait until a notice to end tenancy pursuant to section 47 of the *Act* could take effect.

Consequently, I dismiss the landlord's application.

### Conclusion

I dismiss the landlord's application without leave to reapply. 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: April 5, 2018

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Residential Tenancy Branch