



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ET, FFL

### Introduction

This hearing dealt with the Landlord's Application filed under the *Residential Tenancy Act*, (the "*Act*"), for an early end of tenancy pursuant to section 56 of the *Act* and to recover the cost of filing the application from the Tenants. The matter was set for a conference call.

The Landlord's Agent (the "Landlord") attended the hearing and was affirmed to be truthful in his testimony. As the Tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing documentation was considered. Section 59 of the *Act* and the Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Landlord testified the Application for Dispute Resolution, and Notice of Hearing had been personally served to the Tenants on December 27, 2018. I find that the Tenants have been duly served in accordance with the *Act*.

The Landlord was provided with the opportunity to present his evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

### Issues to be Decided

- Is the Landlord entitled to an early end of tenancy and an Order of Possession, under section 56 of the *Act*?
- Is the Landlord entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

### Background and Evidence

The Landlord testified that the Tenants are running a drug house out of the rental unit, that they are selling drugs and allowing up to ten people to be living there at any given time. The Landlord testified that the Tenants had threatened the previous Property Manager when she attempted to serve them with a Notice to end tenancy and that the Property Manager quit after that incident. The Landlord submitted a letter from the Property Manager into documentary evidence.

The Landlord testified that the Tenants have caused extreme damage to the property and that he estimates the repair value to be about \$60,000. The Landlord submitted ten pictures of the rental unit into documentary evidence.

The Landlord testified that the city bylaw office had advised him that they had received several complaints about the Tenants throwing garbage in the back alley, dealing drugs from the property, noise levels and stolen property found at the rental unit. The Landlord testified that the city has indicated in the email that the rental unit may declare a nuisance property. The Landlord submitted a copy of an email from the city into documentary evidence.

The Landlord also testified that the police attend the rental unit on a daily; however, when asked by this arbitrator the Landlord was unable to provide details regarding the police visits to the property.

The Landlord expressed frustration during the hearing and inquired as to why the Residential Tenancy Branch (RTB) had not assisted him in preparing his case. This Arbitrator advised the Landlord that the RTB information telephone line was available to answer his questions only and that the telephone line was not there to act as his advocate. The Landlord then asked this Arbitrator to provide him with guidance on how to proceed. This Arbitrator advised the Landlord that I could not act as his advocate or provide him with advice on legal matters, and that he may want to seek out legal counsel if he wishes to obtain advice.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an Early End to Tenancy and 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 of the *Act* for a landlord's notice for cause.

In order to end a tenancy early and issue an Order of Possession under section 56, a landlord has the burden of proving that:

- There is sufficient cause to end the tenancy such as; unreasonably disturbed another occupant, seriously jeopardized the health, or safety, or a lawful right, or interest of the landlord, engaged in illegal activity, or put the landlord's property at significant risk; and
- That it would be unreasonable or unfair to the landlord or other occupants to wait for a one month notice to end tenancy for cause under section 47 of the *Act* to take effect.

In this case, while the Tenants conduct may have been disturbing to others, I find the circumstance of this case are not so significant or severe that it would have been unreasonable for the Landlord to have to wait for a One Month Notice to take effect if there was sufficient cause to end the tenancy. Therefore, I find that the Landlord has fallen short of the standard required to obtain an early end of tenancy under section 56 of the *Act*.

Therefore, I dismiss the Landlord's application for an early end of tenancy under section 56 of the *Act*, as I find it neither unreasonable or unfair that the Landlord would need to wait for a One Month Notice to take effect and for the required hearing process under that notice.

Section 72 of the *Act* gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Landlord has not been successful in his application, I find that the Landlord is not entitled to recover the \$100.00 filing fee paid for this hearing.

Conclusion

I dismiss the Landlord's application for an early end of tenancy and to recover her application fee. This tenancy continues 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: January 15, 2019

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Residential Tenancy Branch