



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding NAROD PROPERTIES CORP.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ET, FFL

### Introduction

On February 5, 2019, the Landlord made an Application for Dispute Resolution seeking an early end to this tenancy and an Order of Possession pursuant to Section 56 of the *Residential Tenancy Act* (the “*Act*”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

J.N. attended the hearing as an agent for the Landlord. The Tenant did not attend the hearing. J.N. provided a solemn affirmation.

J.N. confirmed that the Tenant was served the Notice of Hearing package and evidence by registered mail on February 8, 2019 (the registered mail tracking number is on the first page of this decision). Based on the undisputed testimony, in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenant was deemed to have received the Notice of Hearing package and Landlord’s evidence five days after it was mailed.

I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### 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 recovery of the filing fee?

### Background and Evidence

J.N. stated that the tenancy started on March 1, 2017 and rent was currently \$1,250.00 per month, due on the first of each month. A security deposit was not collected.

J.N. advised that he served the Tenant's girlfriend with a One Month Notice to End Tenancy for Cause on January 10, 2019 and he confirmed that the Tenant received this Notice on that day. He also confirmed that the Tenant did not dispute the Notice. He advised that it was his intention to make an Application for an Order of Possession for Cause; however, he was confused when applying and made this Application for an Order of Possession based on an early end of the tenancy.

He stated that this was a problematic tenancy as the Tenant rented out rooms to sex trade workers, that drugs were exchanged on the property, that drug dealers smashed the windows, that many random people either visit the property or reside on the property, and that drug use is pervasive. He advised that there is an abundance of stolen property stored in the rental unit, that many dangerous criminals that are known to police frequent the rental unit, and that the police have attended many times to execute arrest warrants.

He advised that there was a flood of the crawlspace in the summer of 2018, that a plumber attended the house to conduct repairs, and that the plumber discovered many needles floating in the crawlspace. As a result, the plumber would not complete any necessary repairs as it was not safe to do so.

He stated that the Tenant, or people associated with the Tenant, are destroying the house. As well, he advised that the municipality is exerting significant pressure on the Landlord to deal with the issues associated with this nuisance property, or face substantial financial consequences.

He submitted documentary evidence of Orders issued by the local municipality to the Landlord with respect to garbage and refuse on the rental property. He also submitted one letter from the municipality, dated January 10, 2019, outlining that there was a sewage line blockage at the dispute address that was caused by needles being disposed of improperly.

J.N. stated that he did not submit much evidence to corroborate an early end of tenancy Application as he did not understand that this was the Application that he was making. In addition, he advised that he was unsure of what evidence he could have submitted or

how he would have even acquired this evidence to support an early end of tenancy Application.

### Analysis

Section 56 of the *Act* establishes the grounds for a Landlord to make an Application requesting an early end to a tenancy and the issuance of an Order of Possession. 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.*

While J.N. has primarily provided affirmed testimony regarding an early end of tenancy, I do not find that he has provided any persuasive or compelling documentary evidence to support this testimony. As the burden of proof on an early end of tenancy Application is substantially higher than that of an Application for an Order of Possession for Cause, based on what was presented before me, I am not satisfied that J.N. has substantiated that the Tenant has engaged in any of the above behaviours and that "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 for cause" to take effect.

Under the circumstances described, I do not find that the J.N. has provided sufficient evidence to warrant ending this tenancy early. As such, I find that the Landlord is not entitled to an Order of Possession, and I dismiss this Application in its entirety.

As the Landlord was unsuccessful in his claims, I find that the Landlord is not entitled to recover the \$100.00 filing fee paid for this Application.

### 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: March 12, 2019

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Residential Tenancy Branch