



# 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 pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an early end to this tenancy and the issuance of an Order of Possession pursuant to section 56; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The landlord participated in the teleconference, the tenants did not. The landlord testified that they served notice of this hearing and application by posting it on the tenants' door on June 13, 2019. The landlords' daughter was present and confirmed that as a witness for this hearing. Based on the above I find that the tenants were served in accordance with section 89(2)(d) of the *Act*, and therefore the hearing proceeded and completed in the tenants absence. The landlords were given a full opportunity to be heard, to present their sworn testimony, to make submissions, and to call witnesses.

### Issues(s) to be Decided

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

### Background and Evidence

This tenancy began on October 1, 2018. The monthly rent of \$1100.00 is due on the first of each month. The landlord testified that the tenant has only been paying \$800.00 per month instead of the agreed \$1100.00. The landlord testified that the tenants have pets that were not agreed to, and those pets have caused significant damage to the home. The landlord testified that the tenants have used over \$3100.00 of propane and

charged it under her name. The landlord testified that the tenants changed the locks without authorization and has refused to allow her to do a suite inspection. The landlord is fearful that the tenants have caused significant damage to her home. The landlord requests an order of possession and that the tenancy end early.

### Analysis

When a landlord makes an application for an early end to tenancy, the landlord has the burden of proving that:

1. There is cause for ending the tenancy, such as unreasonably disturbing other occupants, seriously jeopardizing the health and safety or lawful right or interest of the landlord and placing the landlord's property at significant risk; **and**
2. 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.

It is apparent from the testimony of the landlord that there are issues between her and the tenants. Section 56 of the Act uses language which is strongly written and it's written that way for a reason. A person cannot be evicted simply because another occupant has been disturbed or interfered with, they must have been **unreasonably** disturbed, or **seriously** interfered with. Similarly the landlord must show that a tenant has **seriously** jeopardized the health or safety or lawful right or interest of the landlord or another occupant, or put the landlord's property at significant risk and that it's **unfair** to the landlord or other occupants to wait for a Notice to End Tenancy. I do accept that the tenant has been a nuisance and caused the landlord some anxiety; however that is not enough to justify an early end of tenancy.

In this case, I am not satisfied that the landlord has met the second part of the test by showing that it would be unreasonable or unfair for a one month Notice to End Tenancy to take effect. I did not find her testimony and documentation to be sufficient to be successful in this application. Although there may be cause to end this tenancy pursuant to Section 47 of the Act; I do not find it is unfair or unreasonable for the landlord to wait for a one month Notice to End Tenancy to take effect.

As the landlord has been unsuccessful in this application, I dismiss the landlord's application to obtain the recovery of his filing fee from the tenant.

### Conclusion

I dismiss the landlord's application in its entirety.

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: July 12, 2019

---

Residential Tenancy Branch