



# 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 a landlord's application for an early end of tenancy and Order of Possession under section 56 of the Act. All parties appeared at the hearing and had the opportunity to be make relevant submissions and to respond to the submissions of the other party pursuant to the Rules of Procedure.

At the outset of the hearing, I confirmed service of hearing documents upon each of the tenants. The tenants confirmed they had not submitted any evidence prior to the commencement of this proceeding.

I explained the hearing process to the parties and I permitted the parties to ask questions relevant to this proceeding.

### Issue(s) to be Decided

1. Is the landlord entitled to an Order of Possession?
2. Is the landlord entitled to recovery of the filing fee paid for this Application?

### Background and Evidence

It was undisputed that a co-tenancy agreement between the landlord and co-tenants OB and MM formed on January 11, 2019 on a month to month basis. Prior to this date the tenant OB had been occupying the rental unit with former co-tenants. The landlord is holding a security deposit of \$900.00. The tenants were required to pay rent of \$1872.00 on the first day of every month.

It was also undisputed that on June 24, 2019 the landlord received an email from tenant MM informing the landlord that she was ending the tenancy effective July 31, 2019. On

June 29, 2019 the landlord's agent was served with a written notice to end tenancy from tenant MM with an effective date of July 31, 2019. The landlord shared MM's notice with tenant OB by email and posting on the door of the rental unit; and, informed OB that she would not be continuing or entering into a tenancy with him after the tenancy ended on July 31, 2019. Tenant OB responded by stating he would not be moving out by July 31, 2019 as he did not have enough notice.

The landlord testified that on July 25, 2019 tenant MM notified the landlord that OB had assaulted her on July 24, 2019 and that both of the co-tenants and MM's daughter were interviewed by the police. During the hearing, MM confirmed that she notified the landlord that she was assaulted by OB. During the hearing, OB confirmed he was interviewed by the police in response to an allegation of assault by MM; however, he was of the position that he did not assault MM and that MM had assaulted him.

The landlord filed this Application for Dispute Resolution the following day, on July 26, 2019 to seek an early end of tenancy and Order of Possession.

During the hearing, MM confirmed that she moved out of the rental unit on July 31, 2019. OB testified that he moved out of the rental unit approximately one week ago although there are still some possessions in the rental unit. With respect to the possession left behind, OB stated he has abandoned the possessions or the possessions do not belong to him and the landlord may dispose of the possessions left behind.

MM and OB had no objection to the landlord obtaining an Order of Possession.

### Analysis

Section 56 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. Section 56 provides:

- (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.

[Reproduced as written with my emphasis added]

In this case, the tenancy was set to end on July 31, 2019 pursuant to a tenant's notice to end tenancy that was given under section 45 of the Act.

The landlord filed for an early end of tenancy on July 26, 2019 in response to notification by tenant MM on July 25, 2019 that co-tenant OB had assaulted her and the police were involved. As such, I find I am satisfied the landlord had not filed this Application for Dispute Resolution in an attempt to obtain an order of possession based on the tenant's notice to end tenancy only.

Since both of the co-tenants had no objection to the landlord obtaining an Order of Possession because they both claim to have already vacated the rental unit, I provide an Order of Possession to the landlord to serve and enforce in the event the tenants have not already vacated or abandoned the property. The Order of Possession shall be effective two (2) days after service.

Considering the landlord had heard from one co-tenant that the other co-tenant, OB, had assaulted her and OB had informed the landlord he was not going to vacate the property by the end of tenancy date of July 31, 2019, I am of the view the landlord had a reasonable basis to file this Application and I award the landlord recovery of the filing

fee paid for this Application from the tenants. The landlord is hereby authorized to deduct \$100.00 from the tenants' security deposit in satisfaction of this award.

Conclusion

The landlord is provided an Order of Possession that may be served and enforced in the event the tenants have not already vacated or abandoned the rental unit. The Order of Possession is effective two (2) days after service.

The landlord is awarded recovery of the \$100.00 filing fee from the tenants. The landlord is hereby authorized to deduct \$100.00 from the tenants' security deposit in satisfaction of this award.

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: August 27, 2019

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Residential Tenancy Branch