



# 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 an Order of Possession pursuant to section 56; and
- authorization to recover the filing fee from the tenant pursuant to section 72.

The tenant did not attend this hearing. The teleconference line remained open for the duration of the hearing. The Notice of Hearing was confirmed to provide the correct hearing information. The landlord was represented by their agents who were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord gave evidence that the tenant was served with the landlord's application for dispute resolution and evidence by posting on the rental unit door on August 13, 2019. The landlord provided a sworn Proof of Service form as evidence of service. Based on the evidence I find that the tenant is deemed served with the landlord's materials on August 16, 2019, three days after posting, in accordance with sections 88, 89 and 90 of the *Act*.

### 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 from the tenant?

### Background and Evidence

The rental unit is a basement suite in a detached home. There are a number of other suites occupied by other tenants. The tenants of the rental building share some common space and facilities. There is a security deposit of \$400.00 collected at the start of the tenancy and still held by the landlord.

The landlord gave evidence that the tenant has engaged in hostile interactions with many of the other occupants of the rental building. These interactions have included insults, threats of violence, and eating other's food stored in the common areas. The landlord also submits that the tenant has kept the common areas of the rental building in a poorly maintained state.

The landlord submits that the tenant appears to have vacated the rental unit. The landlord seeks an Order of Possession to prevent the tenant from returning.

### Analysis

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 and 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.

I find the complaints regarding the tenant to be minor and not at either the level or frequency that would give rise to a basis for this tenancy to end. While insults may be unpleasant, I find that the limited evidence of a few incidents is not sufficient to establish that there has been interference that could be considered as significant. I find that the evidence of the tenant's uncleanliness consists of a few photographs of items left out in areas of the rental suite and do not establish that the tenant is responsible for these items or that the condition causes any risk to the property or impacts the rights of the other occupants of the building.

Furthermore, the landlord gave evidence that the tenant has vacated the rental unit. In a case where the tenant is no longer residing in the rental unit regularly, I find that there is little evidence that it would be unfair or unreasonable to wait for a proper notice to take effect. There is no evidence that there is urgency to end this tenancy or that there is any ongoing threat that could reasonably lead to the conclusion that it would be unreasonable or unfair to the other occupants or landlord to wait for a proper notice to take effect.

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 the tenant poses a risk to the landlord's property such that it would be unreasonable to wait until a notice to end tenancy pursuant to section 47 of the Act could take effect.

Conclusion

The landlord's application is dismissed in its entirety 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: August 29, 2019

---

Residential Tenancy Branch