



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes

ET

### 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.

The landlords attended the hearing. The landlords had full opportunity to provide affirmed testimony, present evidence, and make submissions.

The tenant did not attend the hearing. I kept the teleconference line open for the duration of the hearing to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct participant code was provided to the tenant.

The landlord testified that she served the tenant with the Notice of Hearing and Application for Dispute Resolution by registered mail sent on September 17, 2019 and deemed received by the tenant five days later, on September 22, 2019, under section 90 of the *Act*. The landlord provided the Canada Post tracking number in support of service referenced on the first page of the decision. Based on the undisputed testimony of the landlords, I find the landlord served the tenant with the documents pursuant to section 89 of the *Act*.

### Issue(s) to be Decided

Is the landlord entitled to an early end to this tenancy and an Order of Possession pursuant to section 56?

### Background and Evidence

The landlord testified that they received a letter from the police dated September 12, 2019 stating that the police executed a search warrant at the rental unit and illegal narcotics were found. The police letter also stated that the rental unit was barricaded. The police letter also

stated that the property could be subject to forfeiture if unlawful activity continued at the rental unit. The landlord provided a copy of the police letter.

The landlord also testified that the tenant has let multiple people move five trailers onto the property and reside there without the landlord's permission. The landlord testified that the city has complained about the trailers on the property. However, the landlord did not provide a written complain from the city or any photographic evidence.

The landlord also testified that the tenant was delinquent in his rent payments.

### 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. (emphasis added)**

Orders for Possession issued under section 56 of the *Act* are reserved for the most dire or urgent of situations. The testimonial and evidentiary material presented by the landlord mostly relate to issues of late or unpaid rent and an unkempt yard; neither of which are grounds to end a tenancy in accordance with section 56.

Furthermore, application for an emergency end of tenancy need sufficient evidence. Residential Tenancy Policy Guideline No. 51 states the following:

Applications to end a tenancy early are for very serious breaches only and require sufficient supporting evidence. An example of a serious breach is a tenant or their guest pepper spraying a landlord or caretaker. The landlord must provide sufficient evidence to prove the tenant or their guest committed the serious breach, and the director must also be satisfied that it would be unreasonable or unfair to the landlord or other occupants of the property or park to wait for a Notice to End Tenancy for cause to take effect (at least one month).

Without sufficient evidence the arbitrator will dismiss the application. Evidence that could support an application to end a tenancy early includes photographs, witness statements, audio or video recordings, information from the police including testimony, and written communications. Examples include:

- A witness statement describing violent acts committed by a tenant against a landlord;
- Testimony from a police officer describing the actions of a tenant who has repeatedly and extensively vandalized the landlord's property;
- Photographs showing extraordinary damage caused by a tenant producing illegal narcotics in a rental unit; or
- Video and audio recordings that clearly identify a tenant physically, sexually or verbally harassing another tenant.

The landlord did the letter from the police stating that the drug trafficking was occurring at the house and the property may be subject to forfeiture. However, the landlord did not provide any evidence to show that the police had actually commenced a forfeiture action against the property, or if such an action was to commence in the future, how long the landlord had to resolve the matter before the property would be subject to forfeiture. Furthermore, the landlord has not provided sufficient evidence to establish that the alleged illegal activity of the tenant has damaged the landlord's property or has jeopardized the rights of the landlord. Furthermore, the

landlord has not provided any photographic evidence or testimony from the police to substantiate their claims that the tenant has engaged in illegal activity at the property.

Based on the evidence before me, I find that it would not be unreasonable or unfair to wait for a notice to end the tenancy for cause under section 47 of the *Act*. In light of this finding, I dismiss the landlord's application for an early end to the tenancy without leave to reapply.

### Conclusion

I dismiss the landlord's application. This tenancy will continue 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: October 10, 2019

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Residential Tenancy Branch