



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET, FFL

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord on September 16, 2019 (the “Application”). The Landlord applied for an order ending the tenancy early based on section 56 of the *Residential Tenancy Act* (the “Act”). The Landlord also sought reimbursement for the filing fee.

The Landlord appeared at the hearing. The Tenant did not appear at the hearing. I explained the hearing process to the Landlord who did not have questions in this regard. The Landlord provided affirmed testimony.

The Landlord submitted evidence prior to the hearing. The Tenant did not. I addressed service of the hearing package and Landlord’s evidence.

The Landlord testified that the hearing package and evidence were posted to the door of the rental unit September 18, 2019. The Landlord submitted a Proof of Service signed by a witness confirming this.

Based on the undisputed testimony of the Landlord and Proof of Service, I find the Tenant was served with the hearing package and evidence in accordance with sections 88(g) and 89(2)(d) of the *Act*. I also find the Landlord complied with rule 10.3 of the Rules of Procedure in relation to the timing of service.

As I was satisfied of service, I proceeded with the hearing in the absence of the Tenant. The Landlord was given an opportunity to present relevant evidence, make relevant submissions and ask relevant questions. I have considered the documentary evidence

and all oral testimony of the Landlord. I will only refer to the evidence I find relevant in this decision.

### Issues to be Decided

1. Is the Landlord entitled to an order ending the tenancy early pursuant to section 56 of the *Act*?
2. Is the Landlord entitled to reimbursement for the filing fee?

### Background and Evidence

A written tenancy agreement was submitted in evidence. The tenancy started August 01, 2018 and was for a fixed term of one year. The tenancy then became a month-to-month tenancy. Rent is \$500.00 per month due on the first day of each month. The Tenant paid a \$250.00 security deposit. The agreement is signed by the Landlord and Tenant.

The Landlord sought to keep \$100.00 of the security deposit towards the filing fee.

The Landlord testified as follows.

The rental unit is in the same house that he and his adult children live in.

The Tenant allows people without a home into the rental unit. The Tenant and his guests use illegal substances, including cocaine, in the rental unit. He finds needles around his property from the Tenant and his guests. His children are reluctant to put the garbage out because it is surrounded by the Tenant's guests.

The Tenant wakes others up during the night with noise.

He warned the Tenant that he would be evicted if this behaviour continued. The Tenant did not change his behaviour. The Tenant continues to allow others without a home into the rental unit. The Tenant's guests use the laundry facilities. He served the Tenant with a One Month Notice to End Tenancy for Cause.

The Landlord submitted two photos of needles. The Landlord testified that the first photo was taken prior to April. The Landlord testified that it shows the needles he found

in the garbage when separating it. The photo shows five needles. The Landlord testified that the second photo shows a needle he found on the sidewalk of his property. The Landlord testified that the second photo was taken in June.

The Landlord testified that the Tenant and his guests have seriously jeopardized the health or safety of the landlord and other occupants. The Landlord voiced concerns about needles being left around the property and the risk to his adult children this poses. The Landlord testified that he and his children do not feel safe.

The Landlord submitted an “addendum”. It states and outlines the following. The Tenant has been causing problems since August of 2018. These include allowing suspect people and people using prohibited substances in the rental unit. There are syringes and needles in the Landlord’s property. The Landlord found people using prohibited substances in the rental unit. Police attended due to this. The Tenant agreed not to allow suspect people in the rental unit, but the same thing happens again and again. The letter states it is a “record and additional terms” to the tenancy agreement between the Landlord and Tenant. It states, “Due to the increased unsafety for my family and other tenants, increased maintenance costs and the known health risks of exposure to transmitting disease...”, the Landlord does not want the problems outlined to happen again. It states that the Tenant has read and understood the terms in the letter. The addendum is signed by the Landlord and Tenant April 02, 2019.

### Analysis

Section 56 of the *Act* allows an arbitrator to end a tenancy early where two conditions are met. First, the tenant, or a person allowed on the property by the tenant, must have done one of the following:

1. Significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
2. Seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
3. Put the landlord's property at significant risk;
4. Engaged in illegal activity that has (a) caused or is likely to cause damage to the landlord's property (b) 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) jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord; or

5. Caused extraordinary damage to the residential property.

Second, it must be unreasonable or unfair to require the landlord to wait for a One Month Notice to End Tenancy for Cause under section 47 of the *Act* to take effect.

Pursuant to rule 6.6 of the Rules, the Landlord, as applicant, has the onus to prove the circumstances meet this two-part test.

Based on the undisputed testimony of the Landlord, photos and “addendum”, which was signed by the Tenant, I accept that the Tenant and his guests use prohibited substances in the rental unit. I also accept that the Tenant or his guests have left syringes and needles around the property.

Based on the undisputed testimony of the Landlord and photo submitted from June, I am satisfied that the Tenant continues this behavior despite the warning in the “addendum” that doing so would lead to the tenancy ending.

Based on the undisputed testimony of the Landlord and comments in the “addendum”, which was signed by the Tenant, I accept that the behavior described has seriously jeopardized the health or safety of the Landlord and his adult children. Particularly in relation to syringes and needles being left around the property.

I am satisfied it would be unfair or unreasonable for the Landlord to wait for a One Month Notice to End Tenancy for Cause to take effect given the following. That the Tenant continues the behavior despite agreeing not to and despite a warning that this would lead to eviction. The nature of the issue which poses health and safety risks to the Landlord and his adult children. The fact that the Landlord and his children do not feel safe in their own home, which I accept based on the Landlord’s undisputed testimony. That the behavior has led to police attending the rental unit, which I accept based on the “addendum” which was signed by the Tenant.

I am satisfied the Landlord has met his onus to prove the tenancy should end pursuant to section 56 of the *Act*. I issue the Landlord an Order of Possession for the rental unit which will be effective two days after service on the Tenant.

Given the Landlord was successful, I award the Landlord reimbursement for the \$100.00 filing fee pursuant to section 72(1) of the *Act*. The Landlord can keep \$100.00 of the security deposit as reimbursement for the filing fee pursuant to section 72(2) of the *Act*.

### Conclusion

The Landlord is issued an Order of Possession effective two days after service on the Tenant. This Order must be served on the Tenant and, if the Tenant does not comply with this Order, it may be filed and enforced in the Supreme Court as an order of that Court.

The Landlord is entitled to reimbursement for the \$100.00 filing fee. The Landlord can keep \$100.00 of the security deposit.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: October 11, 2019

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Residential Tenancy Branch