



# 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 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.

Section 9(3) of the *Residential Tenancy Act* (RTA) and *Manufactured Home Park Tenancy Act* (MHPTA) permit the director of the Residential Tenancy Branch to establish rules of procedure for the conduct of dispute resolution proceedings. Under Rule 10 of the rules of procedure, the director may set an application for dispute resolution down for an expedited hearing meaning it will be heard on short notice to the respondent.

Section 71(2)(a) and (c) of the RTA and section 64(2)(a) and (c) of the MHPTA allow the director to order that documents must be served in a manner the director considers necessary, despite the methods of service provided for in sections 88 and 89 of the RTA and sections 81 and 82 of the MHPTA, and that a document not served in accordance with those sections is sufficiently given or served for purposes of the Act.

### **THE DIRECTOR ORDERS that:**

Pursuant to sections 71(2)(a) and (c) of the RTA and sections 64(2)(a) and (c) of the MHPTA, and subject to any further order made pursuant to those sections:

1. A party to an application for dispute resolution set down under Rule 10 of the rules of procedure for a hearing date that is between six and 11 days after the date the application is made must serve their materials
  - a. by leaving a copy with the person,
  - b. if the person is a landlord, by leaving a copy with an agent of the landlord, or

c. if the person is a tenant, by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant.

2. A party to an application for dispute resolution set down under Rule 10 of the rules of procedure for a hearing date that is between **12 and 16 days** after the date the application is made **must serve their materials**

**a. by any method set out in paragraph 1 of this order,**

b. by attaching a copy to a door or other conspicuous place at the address at which the person resides, or

c. if the person is a landlord, by attaching a copy to a door or other conspicuous place at the address at which the person carries on business as a landlord.

The landlord filed an application for dispute resolution on November 12, 2019; this matter was heard on this date, 16 days after filing. SH gave sworn testimony that she and LH posted the Notice of Hearing Documents, Application and their evidence to the door on November 13, 2019. Based on the above, I find that the landlord has served the tenants in accordance with Rule 10 of the Regulations; the hearing proceeded and completed on that basis.

#### Issue(s) to be Decided

Is the landlord entitled to have this tenancy end early and be granted an order of possession?

Is the landlord entitled to the recovery of the filing fee from the tenants for this application?

#### Background and Evidence

SH gave the following testimony. SH testified that the tenancy began on September 5, 2019. The monthly rent is \$2550.00 and is due on the first of each month. At the outset of the tenancy the tenant paid a security deposit of \$1275.00 which the landlord holds in trust. SH testified that in early November 2019, a neighbor called to advise that the police had attended at the subject home. SH testified that she lives nearby and immediately attended at the property. The police were conducting a full investigation to a death on the property. SH testified that she was eventually told that there was a fentanyl overdose on site.

SH testified that she and her husband were given access to the home by the police to do a walkthrough and they observed extreme damage to the home. SH testified that the

carpets had been ripped out, doors smashed, unauthorized pets on site, the smell of pet urine all over the unit, and numerous people living in the home that were not part of the tenancy agreement. LH testified that the floor had a sheen of “cat piss” all over it and that the damage is extensive and far beyond wear and tear. The landlords testified that the tenant has put the property at extreme risk due to the drug activity on site, the damage to the home and the numerous unauthorized individuals who are residing in the unit.

### 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. 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.*

The landlords have satisfied me of the extraordinary damage to the residential property as a result of their undisputed sworn testimony along with video evidence. I am also satisfied that it would be unfair for them to wait for a notice to end the tenancy under section 47 to take effect. I grant the landlords an order of possession pursuant to

section 56 of the Act. The landlords are entitled to retain \$100.00 from the security deposit to recover the cost of the filing fee in full satisfaction of that claim.

Conclusion

The landlord is granted an order of possession. The tenancy is terminated.

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: November 28, 2019

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Residential Tenancy Branch