



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

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord was primarily represented by their family member.

As both parties were present service was confirmed. The tenant confirmed receipt of the landlord's materials and testified that they had not provided any materials of their own. Based on the testimonies I find that the tenant was served with the landlord's materials in accordance with sections 88 and 89 of the *Act*.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to recover their filing fee from the tenants?

### Background and Evidence

The parties agree on the following facts. This tenancy began in October 2019. Monthly rent is set in the written tenancy agreement as \$1,050.00. The rental unit is a suite in a detached home with the landlord occupying the other portion of the building.

The landlord submits various complaints about the tenant stating in their application:

tenant constantly damaging property. tenant has broken the fence, ripped up the grass, drove car into basketball hoop. also has smashed the window on his own vehicle while vehicle was at property leaving glass shards everywhere. tenant can be heard using abusive language at all times of the day and night

The landlord submits some photographs in support of their application.

The landlord gave testimony that the tenants have failed to pay the monthly rent and that is the primary basis for making the present application.

### 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 totality of the evidence before me, I find that the landlord has failed to demonstrate that any of the circumstances described above exist such that it would be unreasonable or unfair to the landlord to serve the tenant with a proper notice to end tenancy and wait for that notice to take effect.

The landlord's complaints about damage to the rental property consists of a few indistinct photographs. These photographs show items such as tire tracks on the ground, or some flattened cardboard near the trash bin. Not only is the condition of the rental property evidenced in these photographs far short of what any reasonable person would consider to be extraordinary damage, the landlord has not established that the condition is attributable to the tenants.

The portions of correspondence between the parties submitted into evidence falls far short of demonstrating any serious jeopardy to health and safety or unreasonable disturbance. Furthermore, the landlord's testimony that police have attended the rental property is not at all persuasive as anyone is able to call authorities and it is not evidence of any actual wrongdoing.

Non-payment of rent is not a ground for an early end of tenancy as set out above and is irrelevant to the matter at hand.

I find that the landlord's testimony that they have made the present application partially as there is a rental arrear demonstrates that this application for an early end of tenancy was not wholly made for legitimate reasons.

I find that the landlord's application is a frivolous abuse of the expedited hearing process made to jump the queue and obtain an earlier hearing date.

Based on the evidence submitted by the parties I find, on a balance of probabilities that the landlord has not shown that the tenants' actions or negligence has given rise to a reason for this tenancy to end. I find that the landlord's complaints about the tenants to fall far short of a basis for an early end of the tenancy and the application is accordingly dismissed.

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: February 28, 2020

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Residential Tenancy Branch