



# 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 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.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The parties confirmed that they had exchanged their documentary evidence. Both parties were represented by counsel.

### Issue(s) to be Decided

Is the landlord entitled to an early end of tenancy and an Order of Possession?  
Is the landlord entitled to recover the filing fee for this application from the tenant?

### Background and Evidence

The landlord gave the following testimony. The tenancy began on April 1, 2019. The monthly rent of 970.00 is due on the first of each month. The tenant paid a security deposit of \$460.00 at the outset of the tenancy. SH testified that there were four incidences in a two-month period that caused her great concern about the tenant's behaviour. SH testified that the two most disturbing occurred on April 26, 2020 and April 27, 2020. SH testified that in the early morning hours of April 26, 2020 three alarms in the home were ringing and observed smoke coming from the subject unit. SH and JF went to investigate to find the tenants suite door unlocked. SH and JF entered and found an extreme amount of smoke coming from the unit. SH testified that there were

pots left on the stove unattended causing the unit to be filled with smoke. JF testified that he retrieved a fire extinguisher to put out the smoking pots. SH looked around the unit to find the tenant on her bed incoherent and unresponsive. SH testified that after several attempts the tenant awoke and had no idea what was occurring. SH testified that the tenant promised that nothing of that nature would happen again. SH testified that around midnight April 27, 2020 the smoke alarm went off again in the house and once again the cause was the tenant. SH testified that the tenant had left pans in her oven with the oven on and unattended causing the unit to fill with smoke again. SH testified that the tenant's behaviour and actions has deteriorated over the past two months and she fears for her safety, the safety of her family and the safety of her home. SH filed an application for the following reason:

- *"The tenant poses an immediate and severe risk to the rental property, other occupants or the landlord"*

SH requests an early end of the tenancy and an order of possession.

The tenant gave the following testimony. KM testified that she had no ill intention to cause any of the issues. KM testified that she will be entering a treatment center in two days. KM testified that she has no recollection of the events of April 26, 2020 and does not deny she was the cause. Counsel for the tenant submits that the landlord has taken a "shot gun" approach of trying to end the tenancy by using four separate incidents to end the tenancy instead of proving that one particular incident should be the reason to end the tenancy. Counsel for the tenant submits that the landlord does not have reasonable grounds to end the tenancy on an emergency basis. Counsel submits that the tenancy can continue as the tenant will be away at a treatment center and will not cause the landlord any trouble.

### Analysis

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the landlord's application and my findings around each are set out below.

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.*

Counsel for the tenant submits that the landlord is ending this tenancy on the basis of discrimination as the tenant suffers from mental health issues. Counsel for the tenant submits that the tenancy must not end as the landlord is obligated to do as much as possible to accommodate the tenant. I do not agree with the tenant's counsel. In the tenant's own testimony, she stated that "she's a great landlord, I'm the one that caused all this". The tenant testified that she had a very good relationship with the landlord prior to these incidents.

The tenant and her counsel have failed to provide sufficient evidence of any discrimination or harassment. In addition, the tenant was very forthright and admitted that she was the cause of all the smoke on April 26, 2020 and again on April 27, 2020. I do not accept her counsel's submission that this is regular and common occurrence during a tenancy.

Based on the above and on a balance of probabilities, I am satisfied that the tenant put the landlord's property at significant risk on April 26, 2020. The tenant was fortunate that the landlord had entered the unit and put out the smoking pans before a fire occurred as she was in no state to protect her own personal safety let alone the safety of the home or the other occupants of that home; the outcome could have been dire. Pursuant to

section 56(1) of the Act, I hereby grant an early end to the tenancy and grant the landlord an order of possession.

As the landlord has been successful in their application, the landlord is entitled to retain \$100.00 from the security deposit for the full recovery of the filing fee.

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: May 12, 2020

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Residential Tenancy Branch