



# 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 assisted by an interpreter.

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 early end of tenancy and Order of Possession?  
Is the landlord entitled to recover their filing fee from the tenant?

### Background and Evidence

This periodic tenancy began in September 2016. The current monthly rent is \$850.00 payable on the first of each month. A security deposit of \$425.00 was paid and is still held by the landlord.

The landlord submits that the tenant keeps the rental unit in a state of disarray and they believe the tenant has rewired the unit causing a risk to the property. The landlord submits that they have attempted to access the rental to inspect the suite and perform maintenance work but but have been prevented entry. The landlord also submits that there was an incident with a fire in the suite in 2009 and that police services were recently called. The landlord submits into evidence various photographs of the suite.

There was a previous application made by the landlord for identical reasons under the file number on the first page of this decision. The landlord neglected to attend that earlier hearing and the matter was dismissed with leave to reapply. The landlord has also submitted with the present application a 10-Day Notice to End Tenancy for Unpaid Rent dated February 26, 2020.

### 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 the damage to the rental property consists of a few indistinct photographs. These photographs show some clutter in a living space. I find little evidence that these photographs are of the rental unit and there is no indication of when the photographs were taken. The landlord failed to provide testimony explaining what these photographs were intended to demonstrate. I find that the condition of the property shown in the photographs to be far short of what any reasonable person would consider to be extraordinary damage and in any event the landlord has not established that the condition is attributable to the tenant.

I find that the landlord's written submission that there was an incident with a fire in 2009 is irrelevant to the matter at hand as an incident that occurred many years before this tenancy commenced has little bearing on this application. I find that the landlord has provided no documentary evidence in support of their allegation that police were recently called. I find that even if their attendance was established it would have little bearing on the matter at hand as anyone is able to call and have the police attend and is not evidence of any actual wrongdoing. I find that the landlord's evidence falls far short of demonstrating any serious jeopardy to health and safety or unreasonable disturbance to others.

I find the landlord's testimony that they have attempted to enter the rental unit for the purposes of inspection and maintenance in direct violation of section 8(1) of the *Ministerial Order M089* issued March 30, 2020 pursuant to the State of Emergency declared on March 18, 2020, to demonstrate the landlord's disregard for the rule of law rather than any conduct on the part of the tenant that puts the property at risk.

I find the 10-Day Notice entered into evidence indicates that the landlord is aware of other methods of ending a tenancy pursuant to the Act. 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 submissions that 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, their second attempt to obtain an early end of this tenancy, 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 tenant's actions or negligence has given rise to a reason for this tenancy to end. I find that the landlord's complaints about the tenant to fall far short of a basis for an early end of the tenancy and the application is accordingly dismissed.

I note that any further applications made by the landlord without reasonable basis or further attempts by the landlord to access the rental unit in violation of the Ministerial Order may give rise to a basis for the tenant to apply for a monetary award against the landlord.

### 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: May 15, 2020

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Residential Tenancy Branch