



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET, FFL

### Introduction

On May 5, 2020, the Landlord made an Application for Dispute Resolution seeking an early end to this tenancy and an Order of Possession pursuant to Section 56 of the *Residential Tenancy Act* (the “*Act*”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Landlord attended the hearing; however, the Tenant did not make an appearance during the 16-minute teleconference hearing. All parties provided a solemn affirmation.

The Landlord advised that the Tenant was served the Notice of Hearing and evidence package by registered mail on May 6, 2020 (the registered mail tracking number is noted on the first page of this Decision). Based on the undisputed testimony, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenant was deemed to have received the Notice of Hearing and evidence package five days after it was mailed.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

- Is the Landlord entitled to an early end to this tenancy and an Order of Possession?
- Is the Landlord entitled to recover the filing fee?

### Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The Landlord advised that the tenancy started on November 1, 2019, that rent was due in the amount of \$1,500.00 per month, and that it was due on the first day of each month. A security deposit of \$750.00 was also paid. A copy of the signed tenancy agreement was submitted as documentary evidence.

Regarding the Landlord's Application for an early end of tenancy, he stated that the first reason he made this Application was because the Tenant had increased the usage of the utilities. He then stated that the Tenant asked the Landlord for money to move out. He also advised that the Tenant recently made threatening remarks to him and about the Landlord's daughter; however, the Landlord did not submit these text messages as documentary evidence, nor did he contact the police about them. He did mention that there was an incident in January 2020 where the Tenant was observed wielding a knife, but the Landlord did not take any action about this incident then. Finally, the Landlord advised that he had already obtained an Order of Possession of the rental unit from a previous Dispute Resolution proceeding (the relevant decision is listed on the first page of this Decision).

### Analysis

Section 56 of the *Act* establishes the grounds for a Landlord to make an Application requesting an early end to a tenancy and the issuance of an Order of Possession. 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.*

When reviewing the totality of the evidence before me, I understand the concerns of the Landlord; however, the Landlord has provided insufficient evidence to warrant ending this tenancy early. Furthermore, as the tenancy has already been determined to have ended by way of a previous Dispute Resolution proceeding, I am unable to award another Order of Possession. As such, I dismiss this Application in its entirety.

As the Landlord was not successful in this claim, I find that the Landlord is not entitled to recover the \$100.00 filing fee paid for this Application.

### Conclusion

Based on the above, I dismiss the Landlord's Application 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 19, 2020

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Residential Tenancy Branch