



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The Landlord applied for an early end to the tenancy, pursuant to section 56 of the *Residential Tenancy Act* (the "Act").

The Landlord's agent (the Landlord) attended the hearing and provided testimony. However, the Tenants did not appear. The Landlord stated that they sent the Notice of Hearing, and evidence to each of the Tenants by registered mail on May 12, 2020. Proof of mailing was provided. Pursuant to section 89 and 90 of the Act, I find the Tenants are deemed served with the package 5 days after it was mailed, on May 17, 2020.

The Landlord was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. 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 end the tenancy early and obtain an Order of Possession?

### Background and Evidence

The Landlord stated that this rental unit is one of a couple units above a commercial space. The Landlord stated that the issue with the Tenants started in March, when they

started to leave the front door ajar and open, which is a risk to building security. The Landlord also stated that since that time, the Tenants are routinely intoxicated, and party. The Landlord stated that the Tenants will yell at the people below on the street, which is impacting business. The Landlord stated that the Tenants will also throw their beer cans over the balcony. The Landlord is concerned with liability and that neighbouring units are being disturbed. The Landlord did not elaborate further on any of these matters, and did not point to any of the documentary evidence uploaded and explain how and why it was relevant and important.

### Analysis

An early end of tenancy is an expedited and unusual remedy under the Act and is only available to the landlord when the circumstances of a tenancy are such that it is unreasonable or unfair to a landlord or other residents to wait for a notice to end tenancy to take effect, such as a notice given under Section 47 of the Act for cause. Therefore, in this case the Landlord bears a strict burden to prove with sufficient evidence that the tenancy should end early Section 56 of the Act.

An application for an early end of tenancy under section 56 of the Act is reserved for situations where a Tenant poses an immediate and severe risk to the rental property, other occupants, or the Landlord. An application for an early end of tenancy is such that a Landlord does not have to follow the due process of ending a tenancy by issuing a notice to end tenancy which gives the Tenant the right to dispute the Notice by applying for dispute resolution.

Under section 56 of the Act, the director may end a tenancy and issue an order of possession only if satisfied, there is sufficient cause; and, it would be unreasonable, or unfair to the Landlord or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 to take effect.

I have carefully considered the evidence before me. I accept that the Tenants are partying, causing a disturbance, and that this is having an impact on the businesses below the rental unit, as well as the neighbours living in the building. However, I do not find this issue is immediate or severe, such that it warrants an early end to the tenancy, pursuant to section 56 of the Act. I dismiss the Landlord's application for an order of possession, as I do not find it meets the criteria for an early end to tenancy, as laid out above.

Given the Landlord was not successful in this hearing, I decline to award the recovery of the cost of the filing fee he paid to make this application.

Conclusion

The Landlord has not met the burden to prove the tenancy should end early. Therefore, the Landlord's Application is dismissed without leave to re-apply and the tenancy will continue until such time it is ended in accordance with the Act.

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: June 11, 2020

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Residential Tenancy Branch