



# 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 landlords' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- An early end of tenancy and Order of Possession pursuant to section 56; and
- Authorization to recover their filing fees 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.

As both parties were present service was confirmed. The tenant confirmed receipt of the landlord's materials and said they had not served 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

Are the landlords entitled to an early end of this tenancy and Order of Possession?  
Are the landlords entitled to recover their filing fee from the tenants?

### Background and Evidence

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 claim and my findings around each are set out below.

This fixed-term tenancy began in October 2019. Monthly rent is \$2,800.00 payable on the 1<sup>st</sup> of each month. A security deposit of \$1,400.00 was collected at the start of the tenancy and is still held by the landlord.

The landlord submits that the tenant has allowed individuals who are not party to the written tenancy agreement to reside on the rental property. The landlord writes in their application:

These new residents are vandalizing the property with spray paint, cutting down trees, breaking railings and doors. Numerous complaints from Neighbours re: threatening behaviour & unlawful acts. Second tenant on the agreement is fearing for her safety, as there is drug abuse by these residents and strangers occupy the property without permission. She is verbally abused when she objects to this.

The landlord submitted into evidence photographs of the rental property as evidence of damage and some brief excerpts from correspondence between the two named respondents. The landlord also submitted a portion of a correspondence from the other named respondent wherein they complain about their personal possessions being destroyed.

### 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 landlords have 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.

While the landlord submits in their application that there have been complaints from neighbours, the landlord failed to submit any documentary evidence in support of this claim. The landlord gave no testimony on this point. The landlord was silent on what illegal activities they believe are being conducted by the tenants. The landlord did not submit any materials to demonstrate that there have been complaints. Based on the absence of any submissions or evidence I find this allegation has no basis.

I find the photographs submitted by the landlord to be of limited assistance in determining that there has been damage to the rental unit attributable to the tenancy. The photographs simply show some deficiencies in what the landlord claims is the rental property. I find that simply showing some areas in need of repair is a far cry from demonstrating that the tenants or individuals allowed on the property by the tenants have caused damage to the property. I do not find the nature or degree of damage shown to be extraordinary and more in line with issues requiring minor maintenance. I find the partial excerpt from a correspondence by the respondent who did not appear to not be reliable evidence to determine the source of the damage. The correspondence is cut off in parts, the writer did not attend the hearing and what little is legible pertains primarily to the writer's personal possessions.

Similarly, I find the excerpts from correspondence between the two named respondents to have little probative value. They demonstrate arguments between the parties but I

find they are not to the degree that it would be considered an unreasonable disturbance or to indicate a serious jeopardy to health or safety.

I find that the landlord has failed to meet their evidentiary burden to demonstrate that there is any basis for this tenancy to end. Their submissions are accusatory without sufficient evidentiary support. Accordingly, I dismiss the landlord's application in its entirety without leave to reapply.

### Conclusion

The landlord's application is dismissed 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: June 30, 2020

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Residential Tenancy Branch