



# 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 an Order of Possession pursuant to section 56; and
- authorization to recover the filing fee from the tenants pursuant to section 72.

The tenants did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The landlords attended and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlords gave evidence that they served each of the tenants with the notice of hearing and evidence by registered mail sent on May 29, 2020. The landlord provided two valid Canada Post tracking receipts as evidence of service. Based on the evidence I find that the tenants are each deemed served with the landlord's materials on June 3, 2020, five days after mailing, in accordance with sections 88, 89 and 90 of the *Act*.

### Issue(s) to be Decided

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

### Background and Evidence

This periodic tenancy began in May, 2018. A security deposit of \$425.00 was collected at the start of the tenancy and is still held by the landlord.

The landlord submits that the tenants have engaged in a level of noise that has required police to be called on numerous occasions throughout the tenancy. The landlords also submit that the tenants have acted in a confrontational and threatening manner towards commercial neighbors. The landlord submitted written submissions citing dates when there were issues with noise complaints and police were called. The landlord also gave evidence that one of their neighbors have complained about being unable to use their own back yard and mentioned “constant partying overnight and drug use and police being called numerous times”.

The landlord submitted into evidence a letter dated April 26, 2020 from a neighbor who characterizes the tenant as being seen “obnoxiously drunk and being aggressive towards a women. The women was also drunk but other people took her away somewhere else”.

The landlord submitted into evidence a letter issued to the tenants dated April 16, 2020 wherein the landlord states that the tenants have violated municipal bylaws, public health recommendations regarding gatherings and section 28 of the *Act* which outlines a tenant’s right to quiet enjoyment and freedom from unreasonable disturbance.

### 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 am not satisfied that the landlords have met their evidentiary onus to establish that this is a situation where an early end of tenancy is warranted.

While the landlords submit that the tenants have engaged in behaviour that have significantly interfered with or unreasonably disturbed other occupants and the landlord, I find the evidence in support of this allegation to be slight. The testimony of the landlords and a brief letter from a neighbor is insufficient to establish that there has been noise or behaviour in its frequency or magnitude has been significant or unreasonable. I find the instances of police being called to be of little probative value as anyone is at liberty to call police and have them attend and it is not evidence that there is any underlying wrongdoing.

I find little evidence in support of the landlords' characterization of the tenants as engaging in threatening behaviour or physical abuse. Similarly, I find both the witness statement and landlord's submissions that the tenants are drunk and obnoxious to lack persuasive details or be particularly believable. I find the submissions of the landlord to be an attempt to dehumanize the tenants and characterize them as partyers and individuals with substance abuse issues. I find little evidence to support this characterization or the landlords' interpretation of this tenancy.

The landlord cites a handful of dates when they say there were complaints by other occupants of the building or that a landlord witnessed disturbance caused by the tenants. Even if I were to accept the landlord's submissions that there was excessive noise or disturbance on those dates, which I find has not been sufficiently established due to the paucity of evidence, I find that a dozen instances over the course of a tenancy started 2 years ago is not sufficient to establish that there has been significant or unreasonable disturbance.

I find that the landlords have not met their evidentiary onus to show that the behaviour of the tenants gives rise to a reason for this tenancy to end. I find there is insufficient evidence in support of the landlords' application seeking an early end of the tenancy and accordingly dismiss the application in its entirety. This tenancy continues until ended in accordance with the *Act*.

### Conclusion

The landlords' 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: June 18, 2020

---

Residential Tenancy Branch