



# 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 to this tenancy and an Order of Possession pursuant to section 56; and authorization to recover the filing fee for this application, pursuant to section 72.

MM attended the hearing on behalf of the landlords. Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The tenants confirmed receipt of the landlord's dispute resolution application ('Application') and evidence. In accordance with sections 88 and 89 of the *Act*, I find that the tenants duly served with the Application and evidence. The tenants did not submit any written evidence for this hearing.

### **Issues(s) to be Decided**

Are the landlords entitled to an early end of tenancy and an Order of Possession?

Are the landlords entitled to recover the filing fee for this application from the tenants?

### **Background and Evidence**

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

This month-to-month tenancy began in August 2019 when the tenant JE moved in with another tenant JG. Monthly rent was set at \$1,500.00. No security deposit was collected by the landlords.

The landlord testified that JG moved out on March 31, 2020, and shortly after on April 23, 2020, JE gave her notice that he would be moving out by June 1, 2020. The landlord testified that JE did not move out despite the fact that she had found a new tenant. The landlord testified that she had attempted to contact JE, but he ignored her messages. The landlord served the tenant with a 10 Day Notice for Unpaid Rent on June 28, 2020.

The landlord testified that she had then discovered that JE had allowed another occupant, HH, to move in without the landlords' knowledge or permission. The landlord testified that JE had not only failed to pay the outstanding rent for this tenancy on time, he also caused significant damage to the property by turning the home into a "drug house". The landlords submitted photos which show various items on the property which the landlord described as "junk everywhere". The landlord testified that the home was now "a mess", and was not a safe environment. The landlord is concerned about the various drug and drug paraphernalia in the home, as well as the fact that HH had moved in without her knowledge or permission.

The tenants confirmed that HH moved in some time after JG had moved out. JE testified that he had never agreed in writing that he would be moving out. JE testified that he was looking for a different place to live after the landlord was calling and screaming at him, but no agreement was made to end the tenancy. The tenants also testified that the landlords had performed an inspection without proper notice or permission, and that they disputed the allegations of drug use.

### **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 of the *Act* for a landlord's notice for cause. In order to end a tenancy early and issue an Order of Possession under section 56 of the *Act*, I need to be satisfied that the tenants have 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.*

The reasons cited in the landlord's application would need to be supported by sworn testimony and/or written, photographic or video evidence in order to qualify for the first part of section 55 of the *Act*. The landlords provided photographs, and other documentary evidence such as messages to support their claim.

Separate from whether there exist reasons that would enable a landlord to obtain an Order of Possession for Cause, the second part of section 56 of the *Act* as outlined above would only allow me to issue an early end to tenancy if I were satisfied that it would be unreasonable or unfair for the landlord to wait until an application to end the tenancy for cause was considered. I must consider whether the landlord has satisfied the requirements for the end of a tenancy under section 56 of the *Act*. In this case, I find that the landlords' application falls well short of the requirements outlined in section 56 of the *Act*. An early end to tenancy is to be used only in situations where there is a compelling reason to address the dispute very quickly and when circumstances indicate that the standard process for obtaining an Order of Possession following the issuance of a 1 Month Notice for Cause would be unreasonable or unfair.

Although the landlords believe that the tenants have engaged in unlawful behaviour that involves the use of drug and drug paraphernalia, the tenants dispute this. The landlords have also submitted evidence to support that the tenants have failed to pay rent as required by the *Act*. Additionally, the landlords are concerned that HH had moved in without their knowledge or permission, and that substantial damage has been done to the home. Despite the concerns raised in the hearing and application, I am not satisfied that the landlords had provided sufficient evidence to support why the standard process of obtaining an Order of Possession following the issuance of a 1 Month Notice for Cause to be unreasonable or unfair.

In light of the evidence and testimony before me, I am not satisfied that the landlords had provided sufficient evidence to support that the issues that have arisen out of this tenancy are significant or serious enough to justify the early end of this tenancy under section 56 of the *Act*. For these reasons, I dismiss the landlords' application for an early end to this tenancy.

The filing fee is a discretionary award issued by an Arbitrator usually after a hearing is held and the applicant is successful on the merits of the application. As the landlords were not successful in this application, the landlords must bear the cost of this filing fee. The landlords' application for recovery of the filing fee is dismissed without leave to reapply.

### **Conclusion**

I dismiss the landlords' entire application without leave to reapply. This tenancy continues until 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: July 7, 2020

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Residential Tenancy Branch