



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ET

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an early end to this tenancy and an Order of Possession, pursuant to section 56.

The tenant did not attend this hearing, which lasted approximately 16 minutes. The landlord and his agent attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The landlord confirmed that his agent, who is his son, had permission to represent him at this hearing.

The landlord's agent confirmed that the tenant was served with the landlord's application for dispute resolution hearing package on June 10, 2020, by way of email. In accordance with section 71(2)(c) of the *Act*, I find that the tenant was deemed served with the landlord's application on June 13, 2020, three days after it was emailed, as per the director's order, dated March 30, 2020, during the state of emergency.

I find that the landlord's application was emailed to the tenant's email address that the tenant routinely used to correspond about tenancy matters with the landlord. The landlord provided a copy of an email from the tenant regarding eviction on May 5, 2020, and the landlord's agent confirmed that this email was also used by the tenant to serve previous Residential Tenancy Branch ("RTB") hearing documents for other hearings.

### Issues to be Decided

Is the landlord entitled to end this tenancy early and to obtain an Order of Possession?

### Background and Evidence

The landlord's agent testified regarding the following facts. This month-to-month tenancy began on June 1, 2019. Monthly rent in the amount of \$1,200.00 is payable on the first day of each month. A security deposit of \$600.00 was paid by the tenant and the landlord continues to retain this deposit. A written tenancy agreement was signed by both parties. The tenant continues to reside in the rental unit.

The landlord's agent stated the following facts. A letter, dated April 9, 2020, was received from the local City authority ordering the landlord to remedy the illegal dwelling at the rental property. The landlord chose to evict this tenant from the property. A One Month Notice to End Tenancy for Cause ("1 Month Notice") was issued to the tenant but it was dismissed by an Arbitrator at a previous RTB hearing because of the state of emergency. The Arbitrator told the landlord that only an early end to tenancy could be sought during the state of emergency. No 1 Month Notice has been issued to the tenant, despite the ability to do so since June 24, 2020. It is unreasonable for the landlord to wait for a 1 Month Notice to take effect because the landlord will be taxed at \$677.75 per year if the situation is not remedied. The landlord was required to evict the tenant by May 31, 2020. The landlord does not know whether a monetary penalty has been issued, to date, for this issue.

### Analysis

While I have turned my mind to the landlord's documentary evidence and the testimony of the landlord's agent, not all details of the respective submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

Section 56 of the *Act* requires the landlord to show, on a balance of probabilities, that the tenancy must end earlier than the thirty days indicated on a 1 Month Notice, due to the reasons identified in section 56(2) of the *Act* **AND** that it would be unreasonable or unfair for the landlord or other occupants to wait for a 1 Month Notice to take effect, as per section 56(2)(b).

To satisfy section 56(2)(a) of the *Act*, the landlord must show, on a balance of probabilities, that:

*(a) the tenant or a person permitted on the residential property by the tenant has done any of the following:*

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;*
- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;*
- (iii) put the landlord's property at significant risk;*
- (iv) engaged in illegal activity that*
  - (A) has caused or is likely to cause damage to the landlord's property,*
  - (B) 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, or*
  - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;*
- (v) caused extraordinary damage to the residential property...*

On a balance of probabilities and for the reasons stated below, I find that the landlord's application fails the first and second parts of the above test under sections 56(2)(a) and (b) of the *Act*.

The landlord's agent did not indicate which one of the above parts of section 56 of the *Act*, the landlord was applying under. The landlord's agent stated that he thought the application was made under section 52 of the *Act*. The landlord's agent claimed that the landlord applied for an early end to tenancy because the landlord's previous 1 Month Notice was not allowed to be issued during the state of emergency.

I find that the landlord did not provide sufficient evidence that it would be "unreasonable" or "unfair" to wait for a 1 Month Notice to be determined. The monetary penalty was identified as a yearly penalty. The landlord stated that the letter from the City is from April 9, 2020, and despite a failure to evict by May 31, 2020, the landlord did not know whether a monetary penalty had been issued. No new 1 Month Notice has been issued by the landlord, despite the current ability to do so.

Accordingly, I dismiss the landlord's application for an early end to this tenancy and an Order of Possession, without leave to reapply.

### Conclusion

The landlord's entire 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: July 10, 2020

---

Residential Tenancy Branch