



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute  
Codes

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### Introduction

This hearing was convened by way of conference call in response to a Landlord's Application for Dispute Resolution to end the tenancy early and obtain an Order of Possession, and to recover the filing fee from the Tenants.

The Landlords and one of the Tenants appeared for the hearing and provided testimony. The Tenant was present with her advocate. The Tenant acknowledge receiving the Landlord's Notice of Hearing, application package, and evidence. The Tenant did not submit any evidence.

All parties were provided the opportunity to present evidence orally and in written and documentary form, and to make oral 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

Both parties provided a substantial amount of conflicting testimony during the hearing. However, in this review, I will only address the facts and evidence which underpin my findings and will only summarize and speak to points which are essential in order to

determine the issues identified above. Not all documentary evidence and testimony will be summarized and addressed in full, unless it is pertinent to my findings.

The Landlords stated that over the last few months, the Tenants have caused a lot of disturbances, on an ongoing basis. The Landlords explained that they live above the Tenants, and two of the Tenants have been arguing, and making noise to a level which causes concern for their safety. The Landlords stated that the RCMP have been called 3 times, once on April 10, 2020, once on April 29, 2020, and another time on May 2, 2020.

The Landlord summarized 11 different incidents where there has been loud noises, arguing, partying, smell of marijuana, loud music, and barking dogs. The Landlords stated they feel a sense of fear and anxiety around living in their own house, due to the noise and disturbance, and because of the anger and hostility which erupts at certain times. The Landlords stated that they feel they cannot leave their house, because they do not trust the Tenants, and they also fear for their safety.

The Tenant stated that she does not dispute that there has been some noise and disturbances, but categorically denies that there has been any physical violence, threats, or danger to any person or property. The Tenant stated that this is a noise issue, not a safety issue, and regardless of whether or not there is basis for a 1-month notice for cause, there is no basis for an emergency early end to the tenancy under this application. The Tenant stated she is planning on moving out at the end of the month anyways, but the Landlords concerns about violence and aggression is not sufficient to demonstrate that there is actual violence or aggression or that there are actual immediate and severe risks to people or property.

### 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 of both parties and I make the following findings in this dispute. It is clear based on the testimony from both parties that the relationship between the Tenants and the Landlords has degraded significantly. The Tenant does not dispute that there have been noise issues. I have reviewed the Landlords' itemization and account of the different incidents over the last couple of months. Although I accept that the Tenants loud and sometimes disruptive behaviour is likely causing the Landlord stress and anxiety, given they are living above, I find there is insufficient evidence that there is a immediate and severe risk to the rental property or any persons.

I do not find the issues presented by the Landlords are severe enough such that it is unreasonable or unfair to a landlord or other residents to wait for a notice to end tenancy to take effect, or such that the tenancy must end in an expedited manner due to a significant and severe situation. Additionally, I do not find there is sufficient evidence from the Landlord to show that there is a domestic situation between the Tenants which warrants an early end to the tenancy.

I do not find the evidence before me sufficiently demonstrates that this issue is immediate or severe, such that it warrants as early end to the tenancy, pursuant to section 56 of the Act. Given the Landlords were not successful in this hearing, I decline to award them the recovery of the cost of the filing fee paid to make this application.

### Conclusion

The Landlords have not met the burden to prove the tenancy should end early. Therefore, the Landlords' 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: August 11, 2020

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Residential Tenancy Branch