



# 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 Landlord's Application filed under the *Residential Tenancy Act* (the "*Act*"), for an early end of tenancy pursuant to section 56 of the *Act* and to recover the cost of filing the application from the Tenant. The matter was set for a conference call.

The Landlord attended the hearing and was affirmed to be truthful in their testimony. As the Tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing documentation was considered. Section 59 of the *Act* and the Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Landlord testified the Application for Dispute Resolution and Notice of Hearing had been served to the Tenant by Canada Post Registered mail, set on September 1, 2020. The Landlord submitted a copy of the Canada Post mailing receipt with tracking number into documentary evidence, as proof of service. I find that the Tenant has been duly served in accordance with the *Act*.

The Landlord was provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

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.

### Issues to be Decided

- Is the Landlord entitled to an early end of tenancy and an Order of Possession, under section 56 of the *Act*?
- Is the Landlord entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

### Background and Evidence

The Landlord testified that the Tenant is a nuisance tenant and has been causing problems in the rental building since November 2019, receiving several noise complaints and throwing beer cans off their balcony. The Landlord submitted a log of complaints they received from the Strat council into documentary evidence.

The Landlord testified that the Tenant had also caused water damage to the rental unit and the unit under them by allowing a bathtub to over, which resulted in a large repair bill that was paid by the Landlord. Additionally, the Landlord testified that there had been three separate water damage incidents in the rental unit that the Tenant failed to report to the Landlord.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

An application for an early end of tenancy is an exceptional measure, to be taken only when a landlord can show that it would be unreasonable or unfair for the landlord or other occupants to allow the 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.

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to tenancy and 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. Section 56 states the following:

***Application for order ending tenancy early***

*49 (1) A landlord may make an application for dispute resolution to request an order*

- (a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 40 [landlord's notice: cause], and*
- (b) granting the landlord an order of possession in respect of the manufactured home site.*

*(2) The director may make an order specifying the date on which the tenancy ends and the effective date of the order of possession only if satisfied that*

*(a) the tenant or a person permitted in the manufactured home park by the tenant has done any of the following:*

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the manufactured home park;*
- (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 manufactured home park, 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 manufactured home park, and*

*(b) it would be unreasonable, or unfair to the landlord or other occupants of the manufactured home park, to wait for a notice to end the tenancy under section 40 [landlord's notice: cause] to take effect.*

*(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.*

In order to end a tenancy early and issue an Order of Possession under section 56, I must 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 interest 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, or
- Engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- Engaged in illegal activity that caused extraordinary damage to the residential property.

In this case, while the Tenant conduct may have been disturbing to others, I find the circumstance of this case are not so significant or severe that it would have been unreasonable for the Landlord to have to wait for a One Month Notice to take effect if there was sufficient cause to end the tenancy. Therefore, I find that the Landlord has fallen short of the standard required to obtain an early end of tenancy under section 56 of the *Act*.

Accordingly, I dismiss the Landlord's application for an early end of tenancy under section 56 of the *Act*, as I find it neither unreasonable nor unfair that the Landlord would need to wait for a One Month Notice to take effect and for the required hearing process under that notice.

Section 72 of the *Act* gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Landlord has not been successful in their application, I find that the Landlord is not entitled to recover the \$100.00 filing fee paid for this hearing.

Conclusion

I dismiss the Landlord's application for an early end of tenancy and to recover their application fee. 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: September 18, 2020

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Residential Tenancy Branch