



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ET FFL

### Introduction

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

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

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

As both parties were present service was confirmed. Based on the testimonies I find that the parties were each duly served with the respective materials in accordance with sections 88 and 89 of the *Act*.

### Issue(s) to be Decided

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

### Background and Evidence

This periodic tenancy began in July 2019. The current monthly rent is \$3,490.00 payable on the first of each month.

The landlord, through their agent, issued email correspondence dated June 29, 2020 which they characterize as Notice to End Tenancy for Landlord's Use. The landlord submits that they were intending to occupy the rental unit as of September 1, 2020, when they returned to the country in accordance with the current Federal self-

quarantining requirements. The tenants did not vacate the rental unit on the date requested in the correspondence.

The landlord submits that as a result of the tenants not vacating the rental unit as requested in their correspondence, they suffered inconvenience and disruption to their plans. The landlord stated that they have filed the present application in the hopes of obtaining an early end of the tenancy to take possession of the rental unit. The landlord testified that they are not aware of the tenants' conduct giving rise to a basis for a Notice to End Tenancy for Cause.

The parties testified that in addition to the present application there are a number of other applications for dispute resolution that have been filed pertaining to other notices to end tenancy that have been subsequently issued.

### 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 testimonies of the parties and the evidence submitted, I find insufficient evidence that the tenants have engaged in any conduct that would give rise to an early end of the tenancy. While I accept that the landlord has been inconvenienced due to the ongoing tenancy, I find that the tenant remaining in their tenancy until such time as it is ended in accordance with the *Act* to be a reasonable exercise of their legal rights. I find insufficient evidence to show that there has been conduct on the part of the tenants that gives rise to a basis for an early end of the tenancy.

The parties referenced a correspondence issued by the landlord's agent dated June 29, 2020, referring to it as a Notice to End Tenancy for Landlord's Use. While I make no finding on the effectiveness of the correspondence as a notice to end tenancy, I note parenthetically that it does not appear to meet the form and content requirements of section 52 of the *Act* as it is not in the approved form, unsigned by the landlord, does not provide the address of the rental unit, and suggests an effective date that is not the day before the day of the month when rent is payable under the tenancy agreement.

As mentioned at the hearing, both parties are well advised to seek guidance from the Branch's Information Services should they have any questions regarding their rights under the *Act* or procedural issues.

### Conclusion

The landlord's 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: September 18, 2020