



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Ricechild Management Ltd dba Bayview  
Apartments and [tenant name suppressed to protect privacy]

## **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 order for an early termination of tenancy and an Order of Possession for an immediate and severe risk pursuant to section 56; and
- Authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 10:00 a.m. to enable the tenants to call into this teleconference hearing scheduled for 9:30 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord attended the hearing, represented by operations manager, CF ("landlord"). The landlord was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord called his witness, ZV who testified that he had posted (taped) the Notice of Expedited Hearing to the tenants' door on September 3, 2020. A signed, witnessed proof of service of notice of expedited hearing form was provided as evidence. The landlord testified that he sent the notice of expedited hearing by registered mail to the tenants' address on September 3, 2020 and provided a tracking number for the mailing. The tracking number is noted on the cover page of this decision. The notice is deemed served on the tenants on September 6, 2020, three days after posting to the tenants' door in accordance with sections 89 and 90 of the Act.

This hearing was conducted in the absence of the tenants in accordance with rule 7.3 of the Residential Tenancy Branch rules of procedure.

Issue(s) to be Decided

Has the landlord provided sufficient evidence to end the tenancy early?

Background and Evidence

While I have turned my mind to all the documentary evidence, including photographs, diagrams, miscellaneous letters and e-mails, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the landlord's application has been recorded and will be addressed in this decision.

A copy of the tenancy agreement was provided as evidence. The tenancy began on April 1, 2017, originally as a one year fixed term, becoming month to month at the end of the first year. Rent was set at \$1,600.00 per month payable on the first of the month.

The landlord testified that during the tenancy, one of the tenants moved out, leaving the remaining tenant AW. The remaining tenant has had multiple complaints made about her involving screaming, yelling, slamming doors and intimidating other tenants. The landlord alleges the tenant has done damage to the rental unit, such as breaking cupboard doors however he does not have any photographs to substantiate this.

The landlord's witness, ZV testified that on Wednesday, July 15, 2020 the police had to come to the tenant's unit and four police officers had to break the tenant's door down to gain access. No photographs of the door were provided as evidence. According to the witness, these four police officers had to restrain the tenant and took her away in an ambulance. The landlord testified that the tenant was not deemed a risk ("pink slipped") and returned to the rental unit after the incident.

The witness ZV further testified that he personally served the tenant with a One Month Notice To End Tenancy for Cause on July 23, 2020. A copy of the notice was provided as evidence. The landlord testified that he has not sought a order of possession based on this notice but instead chose to seek an early end to tenancy because the process would be quicker.

The landlord sums up his application saying that the remaining occupants living on the tenant's floor are scared of the tenant and she intimidates them. None of the other occupants of the rental building were physically harmed by the tenant, although the

landlord says there was an incident where the tenant once 'beat someone up'. Subsequent to filing this application for an early end to tenancy and serving the tenant with a One Month Notice To End Tenancy for Cause, the landlord also served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The landlord testified that the tenant has not filed any applications to dispute either of the notices served upon her.

### 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.

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.**

Residential Tenancy Branch Policy Guideline PG-51 [Expedited Hearings] provides further clarification at part B:

*... there are circumstances where the director has determined it would be unfair for the applicant to wait 22 days for a hearing. These are circumstances where there is an **imminent danger to the health, safety,***

***or security of a landlord or tenant, or a tenant has been denied access to their rental unit. (bold emphasis added)***

...

*Applications to end a tenancy early are for **very serious breaches only** and require sufficient supporting evidence. An example of a serious breach is a tenant or their guest pepper spraying a landlord or caretaker. The landlord must provide sufficient evidence to prove the tenant or their guest committed the serious breach, and the director must also be satisfied that it would be unreasonable or unfair to the landlord or other occupants of the property or park to wait for a Notice to End Tenancy for cause to take effect (at least one month).*

The landlord has provided evidence of what could be considered significant interference or unreasonable disturbance to other occupants of the residential property. While the evidence provided may justify the issuance of a One Month to End Tenancy for Cause pursuant to section 47; the landlord has not satisfied me that it would be unreasonable to wait for a One Month Notice to take effect.

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. Under the circumstances, I find it would be reasonable for the landlord to seek an order of possession based on the One Month Notice to End Tenancy for Cause served pursuant to section 47. Conversely, the landlord could seek an order of possession based on the 10 Day Notice for unpaid rent.

I find the landlord has provided insufficient evidence to justify an early end to tenancy. As such, the landlord's application is dismissed.

As the landlord's application was not successful, the landlord is not entitled to recover the \$100.00 filing fee for the cost of this application.

### Conclusion

The 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: October 05, 2020

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Residential Tenancy Branch