



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET

### Introduction

This hearing was convened in response to an application by the Landlord for an early end to the tenancy and an order of possession pursuant to section 56 of the *Residential Tenancy Act* (the “Act”).

The Tenants did not attend the hearing. I accept the Landlord’s evidence that the Tenants were served with the application for dispute resolution, notice of hearing and evidence (the “Materials”) in person on September 9, 2020 in accordance with Section 89 of the Act. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

### Background and Evidence

The tenancy under written agreement started on September 1, 2019. Rent of \$900.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$450.00 as a security deposit. On July 29, 2020 the Landlord served the Tenants in person with a one month notice to end tenancy for cause (the “Notice”). The Notice sets out an effective date of August 31, 2020. The Tenants did not dispute the Notice and informed the Landlord in August 2020 that they were not moving out as they had no place to move to. The Landlord states that the Tenant also told the Landlord

that the earliest they could move out of the unit would be the end of September 2020. The Landlord states that it was informed on or about October 3, 2020 that the Tenants had moved some belongings out of the unit however the Landlord has not since attended the unit or contacted the Tenants to determine if they have moved out.

The Landlord states that it made a previous application for an order of possession based on the undisputed Notice but did not receive the hearing package from the Residential Tenancy Branch (the "RTB"). The Landlord provides the file number for this previous application. The Landlord states that the RTB informed the Tenant it could chose to withdraw the previous application and make another one. The Landlord states that it withdrew the previous application sometime in August 2020. The Landlord made this application on September 2, 2020 but has no evidence that any emergency occurred between the effective date of the Notice and the date it made this current application. It is noted that the previous application was withdrawn on September 2, 2020. The Landlord states that the Tenant has been causing the Landlord to be disturbed and that the Tenants refusal to move out was disturbing to the Landlord.

### Analysis

Section 56(2) of the Act provides that the director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,

(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, and
- (b)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 [*landlord's notice: cause*] to take effect.

The Landlord gave evasive evidence of why it chose to apply for this expedited hearing instead of proceeding on an application for an order of possession based on the undisputed Notice. I also note that the Landlord gave contradictory evidence of when the previous application was withdrawn as it was withdrawn the same day this application was made. Nonetheless, given the evidence of the effective date of the Notice having expired at the time of this application and as there is no evidence of any immediate and severe risk since the effective date of the Notice I find that regardless of whether there is cause to end the tenancy under this section the Landlord has not provided evidence that at the time it made this application it was unreasonable to wait for the notice to end tenancy to take affect. I consider it more likely that the Landlord made this expedited application in order to obtain an earlier hearing time than it would have under an application for an order of possession based on the Notice. For these reasons I dismiss the application for an early end of tenancy and an order of possession. The Landlord remains at liberty to make an application for an order of possession based on the undisputed Notice.

### Conclusion

The application is dismissed.

This decision is made on authority delegated to me by the Director of the RTB under Section 9.1(1) of the Act.

Dated: October 08, 2020

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Residential Tenancy Branch