



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET, FFL

### Introduction

This hearing dealt with the Landlords' 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.

Both Landlords attended the hearing and were each 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 Landlords testified the Application for Dispute Resolution and Notice of Hearing had been served to the Tenant by registered mail, sent on September 25, 2020, a registered mail tracking number was provided as proof of service. I find that the Tenant had been duly served in accordance with the *Act*.

The Landlords were 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

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

### Preliminary Matter – Conduct

At the outset of these proceedings, when this Arbitrator requested testimony regarding the service of the Notice of Dispute Resolution Hearing documentation, the Landlord (J.J.) expressed frustration that this Arbitrator had required the Landlord to testify to details contained in their documentary evidence.

The Landlords were advised that Section 7.4 of the Residential Tenancy Branch Rules of Procedure states the following:

#### **7.4 Evidence must be presented**

Evidence must be presented by the party who submitted it, or by the party's agent.

The Landlord (J.J.) became verbally combative with this Arbitrator and was cautioned.

### Background and Evidence

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The Landlords testified that the Tenant's relationship with their partner had broken down and that the partner had moved out of the rental unit and was living in a shelter for their own safety.

The Landlord testified that the Tenant remained in the rental unit and had been started drinking again. The Tenant was verbally threatening their partner and to the neighbours living in the area. The Landlord submitted three statements into documentary evidence. The Landlords are requesting an order of possession of the rental unit.

### Analysis

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

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an Early 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 of the *Act* for a landlord's notice for cause.

In order to end a tenancy early and issue an Order of Possession under section 56, a landlord has the burden of proving that:

- There is sufficient cause to end the tenancy such as; unreasonably disturbed another occupant, seriously jeopardized the health, or safety, or a lawful right, or interest of the landlord, engaged in illegal activity, or put the landlord's property at significant risk; and
- That it would be unreasonable or unfair to the landlord or other occupants to wait for a one month notice to end tenancy for cause under section 47 of the *Act* to take effect.

In this case, while the Tenant's 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 Landlords 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 Landlords have fallen short of the standard required to obtain an early end of tenancy under section 56 of the *Act*.

Therefore, I dismiss the Landlords' application for an early end of tenancy under section 56 of the *Act*, as I find it neither unreasonable nor unfair that the Landlords 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 Landlords have not been successful in their application, I find that the Landlords are not entitled to recover the \$100.00 filing fee paid for this hearing.

Conclusion

I dismiss the Landlords' 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: October 19, 2020

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Residential Tenancy Branch