



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding THUAN PHUOC HOLDING LTD and  
[tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ET

### Introduction

On November 23, 2020, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) for an early end of tenancy and an order of possession for the rental unit.

The matter was set for a conference call hearing. The Landlord and Tenant attended the hearing;

The Landlord and Tenant provided affirmed oral testimony and made submissions during 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.

### Background

The Landlord and Tenant submitted that the tenancy began in the spring of 2109 and is currently on a month to month basis. Rent in the amount of \$400.00 is due to be paid to the Landlord by the first day of each month.

The Landlord provided testimony confirming that a One Month Notice to End Tenancy for Cause (“the One Month Notice”) was issued to the Tenant on November 7, 2020.

The Landlord provided a copy of the One Month Notice. The Landlord selected the following reasons for ending the tenancy within the One Month Notice:

*Tenant or a person permitted on the property by the Tenant has:*

- *Significantly interfered with or unreasonably disturbed another occupant or the Landlord.*
- *Seriously jeopardized the health or safety or lawful right of another occupant or the Landlord.*
- *Put the Landlord's property at significant risk.*

*Tenant has engaged in illegal activity that has, or is likely to:*

- *Damage the Landlord's property.*
- *Adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the Landlord.*
- *Jeopardize a lawful right or interest of another occupant or the Landlord.*

The One Month Notice provides information for Tenants who receive the Notice. The Notice provides that a Tenant has the right to dispute the Notice within 10 days after receiving it by filing an Application for Dispute Resolution at the Residential Tenancy Branch.

On November 12, 2020, the Tenant disputed the One Month Notice within the required time period. The Residential Tenancy Branch case management system indicates that a conference call hearing is scheduled for February 4, 2021 @ 9:30 am to determine whether or not the Landlord has sufficient cause/ reason to end the tenancy. The Tenant provided unclear testimony on whether or not he served notice of the hearing to the Landlord to attend the hearing.

On November 23, 2020, the Landlord applied for dispute resolution under the Act seeking an early end to the tenancy and an order of possession for the rental unit.

The Landlord provided testimony that the Tenant has many visitors coming in and out of his unit; he has a large aggressive dog that is not permitted; and he has caused extensive damage to the rental unit.

The Landlord provided testimony that the issues raised in this hearing are identical to the reasons why the One Month Notice was issued. The Landlord was asked if there was some intervening act which prompted her to apply for an early end of hearing rather than relying on the process of the One Month Notice and she replied that she applied because the Tenant will not allow the Landlord into the rental unit to make repairs.

In reply, the Tenant testified that he did not let the Landlord into the unit on one occasion because the Landlord never gave him a proper written notice of entry.

### Analysis

Section 56 of the *Act* states that a Landlord may make an application for dispute resolution to request an order to end a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 and granting the Landlord an order of possession in respect of the rental unit. If an order is made under this section, it is unnecessary for the Landlord to give the Tenant a notice to end the tenancy.

Under section 56 of the Act, the director may end a tenancy and issue an order of possession only if satisfied, in the case of a Landlord's application, the Tenant or a person permitted on the residential property by 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,
- 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
- 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 or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 to take effect.** [my emphasis]

Based on the testimony and documentary evidence before me I make the following findings:

An application for an early end of tenancy is reserved for situations where a Tenant poses an immediate and severe risk to the rental property, other occupants, or the Landlord. Based on the evidence from the Landlord and Tenant, I make the following findings:

I find that the Landlord issued a One Month Notice to the Tenant on November 7, 2020. The Tenant disputed the One Month Notice on November 12, 2020, eleven days prior to the Landlord's application for an early end of tenancy.

I find that there has not been an intervening action/ incident by the Tenant since the One Month Notice was issued that would make it unreasonable or unfair to the Landlord or other occupants of the residential property, to wait for the One Month Notice issued under section 47 to take effect.

A hearing is scheduled for February 4, 2021 @ 9:30 am. The Tenant is required to serve the Landlord with a Notice of Dispute Resolution Proceeding for that hearing. The Landlord is also at liberty to apply for dispute resolution and request an order of possession based on issuance of the One Month Notice.

The Landlord's application for an early end of tenancy and an order of possession for the rental unit is dismissed.

### Conclusion

The Landlord issued the One Month Notice to the Tenant 16 days prior to applying for an early end of tenancy for the same reasons contained in the Notice. I find that there is no intervening act that would make it unreasonable or unfair to the Landlord or other occupants of the residential property to wait for the One Month Notice issued under section 47 to take effect.

The Landlord's application for an early end of tenancy and an order of possession under section 56 of the Act is dismissed.

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: December 22, 2020

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Residential Tenancy Branch