



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET, FFL

### Introduction

On November 28, 2020, the Landlord submitted an Application for Dispute Resolution under Section 56 of the *Residential Tenancy Act* (the “Act”) requesting that the tenancy end early and for an Order of Possession for the rental unit, and to be compensated for the filing fee. The matter was set for a participatory hearing via conference call.

The Landlord attended the conference call hearing; however, the Tenant did not attend at any time during the 44-minute hearing. The Landlord testified that the Notice of Dispute Resolution Proceeding and related evidence was served to the Tenant via registered mail on December 8, 2020. The Landlord provided the tracking number and stated that the Canada Post website indicated that a notice was delivered to the Tenant’s address to advise that the package was available for pick up. As such, I find that the Tenant is deemed to have received the Notice of Expedited Hearing - Dispute Resolution Proceeding on December 13, 2020, in accordance with Sections 89 and 90 of the Act.

Rule 7.3 of the *Residential Tenancy Rules of Procedure* states if a party or their agent fails to attend a hearing, the Arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the Application, with or without leave to re-apply.

As the Tenant did not call into the conference, the hearing was conducted in their absence and the Application was considered along with the affirmed testimony and evidence as presented by the Landlord.

### Issue to be Decided

Is the Landlord entitled to an early end of tenancy and an Order of Possession pursuant to Section 56 of the Act?

Should the Landlord be compensated for the cost of the filing fee, in accordance with section 72 of the Act?

### Background and Evidence

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.

The Landlord provided testimony that the fixed-term tenancy began on June 15, 2020, and that the monthly rent was \$1,050.00 and due on the first of each month.

The Landlord submitted the details of her claim where she alleges the Tenant poses an immediate and severe risk to the rental property, other occupants and the Landlord.

The Landlord testified that, in November 2020, other occupants of the residential property reported that they had observed the Tenant allowing “homeless” people into the building; that there has been more pedestrian traffic in the building as a result of the Tenant living there, that the Tenant has been smoking in the building, and that the Tenant may be selling drugs. The Landlord sent a letter to the Tenant that documented these concerns on November 18, 2020.

The Landlord stated that on November 25, 2020, she spoke with the Fire Inspector and learned that the Tenant had a non-approved fire pit on the rear deck of the rental unit.

The Landlord stated that she served a One Month Notice for Cause to the Tenant on November 25, 2020.

The Landlord submitted a copy of a notice she posted on the Tenant’s door on November 27, 2020, that advised of an upcoming inspection of the rental unit for December 1, 2020.

On November 28, 2020, the Landlord applied for an order to end the tenancy early, based on the above issues with the Tenant.

On December 1, 2020, the Landlord attended the rental unit at 9:00 a.m. and knocked on the door for several minutes. The Landlord stated she heard the Tenant say that she could come in; therefore, the Landlord entered the rental unit with her key.

The Landlord testified that the Tenant was not present when the Landlord opened the door and she began to take pictures of the unit. The Landlord stated that while she was doing so, the Tenant came out of her bedroom and slapped the Landlord’s upper arm. The Landlord called 911 to report the assault and spoke with an officer about the altercation. The Landlord submitted pictures of her upper arm and advised that there is a police file related to this incident.

The Landlord’s witness testified to say that he owns a commercial business in the area and that the Tenant approached him on two occasions in November 2020 and asked if he wanted to buy drugs.

As a result of the Tenant's actions, the Landlord is requesting an early end of tenancy and an Order of Possession.

### 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 to request an Order of Possession on a date that is earlier than the tenancy would end if a Notice to End Tenancy were given under section 47 of the Act. 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.*

The causes for ending the tenancy early, as listed above, are identical to the causes for which a landlord can end a tenancy by serving a One Month Notice to End Tenancy for Cause. The difference between this process and a determination on whether the landlord has the grounds to end the tenancy for cause is that when a landlord seeks to end the tenancy earlier than would occur had a One Month Notice to End Tenancy for Cause been served, the landlord must also prove that it would be unreasonable or unfair to the landlord or other occupants to wait for the One Month Notice to End Tenancy for Cause to take effect. In other words, the situation created by the tenant must be extreme and require immediate action.

As I mentioned to the Landlord during the hearing, I do not find the Tenant's alleged actions prior to December 1, 2020, constitute sufficient evidence of an extreme nature that would require an immediate end of tenancy.

I do, however, accept the Landlord's undisputed testimony that the Tenant assaulted the Landlord by slapping her arm on December 1, 2020. As a result, I find that the Tenant significantly interfered and unreasonably disturbed the Landlord.

Based on the testimony and evidence before me, I am satisfied that the Landlord has grounds to end this tenancy for cause. However, I am not satisfied that the situation is so urgent and that there is genuine concern for the ongoing safety of the other residents or the Landlord and that the tenancy should end earlier than a One Month Notice to End Tenancy for Cause would normally take effect.

I find that the Landlord failed to provide sufficient evidence that this tenancy should end, pursuant to Section 56 of the Act. As a result, I dismiss the Landlord's Application to end the tenancy early.

### Conclusion

I dismiss the Landlord's Application to end the tenancy early. I authorize this tenancy to continue until it is 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: January 05, 2021

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Residential Tenancy Branch