



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET

### 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 the filing for this application. The matter was set for a conference call.

Both Landlords and the Tenant attended the hearing and were each affirmed to be truthful in their testimony. The Landlords and the Tenant 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.

### Issue 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*?

### Background and Evidence

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or

arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

The parties confirmed that this tenancy began in December 2014. However, the parties disagreed on the amount of rent due each month, the Landlords claiming that rent is \$976.00 per month and the Tenant claiming that rent is \$456.00 per month. Both parties agreed that no security or pet damage deposit was paid for this tenancy. Additionally, the parties agreed that the Tenant is the son of the Landlords and rents the basement suite in the home, where the Tenant lives with their two children.

The Landlord testified that the Tenant had assaulted them on October 17, 2020, that the police attended the property that day, and had told the Tenant to stay away from the Landlords.

The Landlord testified that the Tenant breached the police order to stay away from them and again assaulted them on October 18, 2020. The police were called to attend the property again, this time arresting and charging the Tenant.

The Landlord testified that the Tenant was released the following day, October 19, 2020, with release conditions, including the condition that the Tenant could not attend the rental property. A copy of the release conditions was submitted into documentary evidence by the Landlords.

The Landlord submitted a written statement and testified they had continued to allow the Tenant to live on the rental property, as their grandchildren live with the Tenant in the basement suite, and they did not want them to be homeless.

The Landlords testified that they wish to end this tenancy due to the events of October 17th and 18th 2020, but that it is their intent that their grandchildren remain on the property with them and the children's mother, who has moved in with them in the upper unit of the rental property.

The Landlords also testified that the Tenant breached the conditional release order just last week by contacting them by text message, but that when they called the police to enforce the conditions of the order, the police refused, stating that the Landlords' decision to disregard the release conditions set in October 2020, by allowing the Tenant to be on the property for several months, had made the conditions unenforceable.

The Tenant testified that there was an incident between them and the Landlords on both 17th and 18th of October 2020 and that they do have a pending court case due to the incident of October 18, 2020, but that they believe the charges will be dropped.

The Tenant confirmed that they Landlords have given them permission to be on the property.

### 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 and subsequent arrest may have been disturbing to the Landlord, I find the decision of the Landlords to wait over three months from the date of this incident to attempt to end the tenancy for what happened during that incident, combined with the Landlords decision to disregard the conditions of the release order by allowing the Tenant to return to the property, to show that on a balance of probabilities this incident was not so significant or severe to warrant an end of tenancy pursuant to section 56 of the *Act*. Therefore, I find that the Landlords has fallen short of the standard required to obtain an early end of tenancy under section 56 of the *Act*.

Consequently, I dismiss the Landlord's application for an early end of tenancy under section 56 of the Act, as I find it neither unreasonable nor unfair that the Landlord 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 Landlord has not been successful in this application, I find that the Landlord is 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. 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: February 5, 2021

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Residential Tenancy Branch