



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      ET FFL

### **Introduction**

This hearing dealt with the landlord's application pursuant to the *Manufactured Home Park Tenancy Act* for an early end to this tenancy and an Order of Possession pursuant to section 49; and authorization to recover the filing fee for this application, pursuant to section 65.

The tenant confirmed receipt of the landlord's dispute resolution application ('Application') and evidence package. In accordance with sections 81 and 82 of the *Act*, I find that the tenant duly served with the Application and evidence package. The tenant did not submit any written evidence for this hearing

### **Issues(s) to be Decided**

Is the landlord entitled to an early end of tenancy and an Order of Possession?

Is the landlord entitled to recover the filing fee?

### **Background and Evidence**

While I have turned my mind to all the documentary evidence properly before me and the testimony provided in the hearing, 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

This manufactured home park tenancy began approximately 7 years ago, with monthly pad rental currently set at \$300.00, payable on the first of the month. The tenant currently still resides at the manufactured home park.

The landlord is seeking the early end of this tenancy for several reasons. The landlord testified in the hearing that the tenant is significantly in arrears for this tenancy, and has not paid any rent in 2018 or 2020. The landlord has issued the tenant several 10 Day

Notices to End Tenancy for Unpaid Rent, but the tenant has not moved out. Additionally, the landlord testified that the tenant continues to engage in behaviour that has significantly disturbed and threatened the health and safety of other residents, dogs and pets, as well as the landlord including excessive speeding, drug use resulting in multiple overdoses and death, as well as threatening to shoot the landlord. The landlord testified that the threat was witnessed by other tenants, one of whom submitted a written statement. The landlord submitted several written statements from other residents, but notes that many are too fearful of the tenant to do so. The landlord testified that the situation has escalated to the point that it is now “out of control”, and the landlord feels that he has received too many complaints about the tenant. The landlord confirmed in the hearing that no Notices to End Tenancy for Cause have been issued to the tenant for this tenancy.

The tenant disputes the landlord’s application for an Order of Possession, and testified that he is not a violent man. The tenant admitted to speeding, but notes that he is now more aware and conscientious after receiving notice of the complaints.

### **Analysis**

Section 49 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of 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 40 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 49 of the *Act*, 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 reasons cited in the landlord's application would need to be supported by sworn testimony and/or written, photographic or video evidence in order to qualify for the first part of section 48 of the *Act*. The landlord provided sworn testimony, as well as submitted in evidence several written statements, a police file number, as well as documented proof of the landlord's attempts to end this tenancy by way of a 10 Day Notice for Unpaid Rent.

The landlord confirmed that the tenant has not been served with a 1 Month Notice to End Tenancy for Cause pursuant to section 40 of the *Act*, nor has the landlord applied for an Order of Possession pursuant to any Notices to End Tenancy. The landlord, in their application, is attempting to obtain an early end to tenancy as they feel that the tenant has engaged in repeated incidents that have caused the landlord and neighbouring tenants and occupants concern.

Separate from whether there exist reasons that would enable a landlord to obtain an Order of Possession for Cause, the second part of section 49 of the *Act* as outlined above would only allow me to issue an early end to tenancy if I were satisfied that it would be unreasonable or unfair to the landlord to wait until an application to end the tenancy for cause were considered. In this case, I find that the landlord's application falls well short of the requirements outlined in section 49 of the *Act*. An early end to tenancy is to be used only in situations where there is a compelling reason to address the dispute very quickly and when circumstances indicate that the standard process for obtaining an Order of Possession following the issuance of a 1 Month Notice for Cause would be unreasonable or unfair.

Although the landlord testified that the tenant has been served with a 10 Day Notice to End Tenancy, the landlord has not filed an application for an Order of Possession pursuant to any Notices to End Tenancy. Despite the landlord's concerns about the tenant's behaviour, the landlord has not issued the tenant any 1 Month Notices to End Tenancy for Cause. The landlord's failure to pursue an Order of Possession pursuant to a 10 Day Notice or a 1 Month Notice does not automatically qualify them to apply under section 49 of the *Act*.

Although I note the concerns that the landlord and other tenants have raised as part of this application, I find that the landlord failed to provide sufficient and compelling evidence to support why the standard process of obtaining an Order of Possession following the issuance of a 1 Month Notice for Cause to be unreasonable or unfair. I am not satisfied that the tenant poses an immediate threat to the landlord, other tenants, or the property. For these reasons, I dismiss the landlord's application for an early end to this tenancy.

**Conclusion**

I dismiss the landlord's entire application without leave to reapply. 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 *Manufactured Home Park Tenancy Act*.

Dated: March 5, 2021

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Residential Tenancy Branch