



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET, FFL

### Introduction

On February 16, 2021, 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 scheduled as teleconference hearing. The Landlord attended the hearing; however, the Tenant did not. The Landlord testified that the Tenant was served with the Notice of Dispute Resolution Proceeding on February 26, 2021 by posting the Notice on the Tenant’s door. The Landlord provided a proof of service document where a witness confirms service of the Notice. The Landlord also provided a photograph of the Notice attached to the Tenant’s door of the rental unit. I find that the Tenant was served with the Notice of Dispute Resolution Proceeding in accordance with sections 89 and 90 of the Act and failed to attend the hearing.

The Landlord was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

### Background

The Landlord testified that the tenancy began on February 1, 2020, on a month to month basis. The Landlord testified that rent in the amount of \$950.00 is due to be paid to the Landlord by the first day of each month. The Landlord provided a copy of the tenancy agreement.

The Landlord provided testimony that the Tenant lives in a bachelor unit with another occupied rental unit to one side. The Landlord testified that the Tenant has done significant damage to the rental property and has disturbed the other occupant living on

the property. The Landlord testified that the Tenant has somehow accessed the attic area above his unit and is walking above the ceiling area of the other occupant. The Landlord testified that there is no access from the Tenants rental unit into the attic and the Tenant has cut his way in through the ceiling.

The Landlord testified that the Tenant is interfering with the electrical wiring in the attic which is affecting the other occupants use of lights. The Landlord testified that the other occupant has complained to the Landlord about the noise coming from above in the attic and also that her lights are not working.

The Landlord testified that the Tenant has people coming and going from the unit all day long and it appears he has a bicycle chop shop set up on the property. The Landlord testified that the police have attended the unit a dozen times in the past month.

The Landlord testified that one of the windows in the Tenant's rental unit has been smashed out.

The Landlord testified that he has attempted to communicate with the Tenant, but the Tenant avoids the Landlord and will not engage in any conversation.

The Landlord stated that the rent owing under the tenancy agreement has not been paid for the past two months.

### Analysis

An application for an early end of tenancy under section 56 of the Act is reserved for situations where a Tenant poses an immediate and severe risk to the rental property, other occupants, or the Landlord. An application for an early end of tenancy is such that a Landlord does not have to follow the due process of ending a tenancy by issuing a notice to end tenancy which gives the Tenant the right to dispute the notice by applying for dispute resolution.

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.

Based on the affirmed testimony and evidence from the Landlord, I find that the Landlord has provided sufficient evidence that the Tenant has caused damage to the property and disturbed another occupant. I find that the Tenant adversely affected or is likely to adversely affect the quiet enjoyment, security, safety, or physical well-being of another occupant of the residential property and has caused extraordinary damage to the residential property.

I find that it would be unreasonable for the landlord or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 to take effect. Therefore, I am ordering that the tenancy will end immediately.

The Landlord's application for an early end of tenancy and an order of possession is granted.

The Landlord is granted an order of possession, effective one (1) day after service on the Tenant pursuant to section 56 of the Act. This order may be filed in the Supreme Court and enforced as an order of that Court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

### Conclusion

The Tenant 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 and has 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.

The tenancy is ending immediately.

The Landlord is granted an order of possession effective one (1) day after service on the Tenant.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution. The Landlord is granted a monetary order for \$100.00.

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: March 11, 2021

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Residential Tenancy Branch