



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      ET

### **Introduction**

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "**Act**") for an early end to the tenancy and an order of possession pursuant to section 56.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 9:48 am in order to enable the tenants to call into this teleconference hearing scheduled for 9:30 am. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord testified he served that each tenant with the notice of expedited hearing resolution form (issued March 22, 2021) and supporting evidence package via registered mail and by posting it on the door of the rental unit on March 23, 2021. He provided signed and witnessed proof of service forms and Canada Post tracking numbers confirming these mailing which is reproduced on the cover of this decision. I find that the tenants have been served with the required documents in accordance with the Act and the Rules of Procedure.

### **Issues to be Decided**

Is the landlord entitled to end the tenancy early and obtain an order of possession?

### **Background and Evidence**

While I have considered the documentary evidence and the testimony of the landlord, not all details of his submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

The parties entered into a written, month-to-month tenancy agreement starting February 15, 2021. Monthly rent is \$2,000 and is payable on the first of each month. The tenants paid the landlord a security deposit of \$1,000, which the landlord holds in trust for the tenants. The residential property is a single-detached house.

The landlord testified that the tenants have yet to pay monthly rent. He issued a 10 Day Notice to End Tenancy for Non-Payment of Rent on March 4, 2021. However, this notice does not form the basis of the application before me. I will not discuss it further, and only mention it only for the sake of completeness of the record.

The landlord testified that shortly after the tenancy started, the tenant parked four recreational vehicles ("**RVs**") on the residential property. He testified that, in order to do this, they cut down a fence he had installed "seven or eight months" prior.

On March 3, 2021, there was a fire inside one of the RVs parked in the rental unit's driveway. The fire department was called to extinguish the fire. The landlord provided an email he received from the municipal assistant fire chief dated March 17, 2021 which stated:

Engine 1 on scene with the motorhome with smoke showing from the windows and doors. The door was open and people were getting in and out of the motorhome.

We chalked the wheels and got everyone back from the vehicle. We confirmed that there was no propane on the vehicle and it was not plugged in. The fire was struck upon arrival. We did some overhaul around the window. We completed a primary and secondary search of the vehicle. Overhaul was completed. We assisted with retrieving some of the valuables like cell phone and clothing.

E1 [engine one] cleared.

The landlord submitted a letter from two of the neighbours of the rental property, in which they wrote:

We are concerned about the fire danger from the RV's parked on your property. There was a fire in the motorhome parked in the front portion of your driveway on March 3rd and it was fortunate that the fire Department responded so quickly. If this fire had gone unnoticed it would have destroyed the RV and possibly spread to both your house and our house and fence.

At present there is an old long fifth wheel RV at the back of your driveway in front of the garage. This 5<sup>th</sup> wheel is of serious concern to us as we are worried about another fire. If a fire was to break out, it might go undetected, especially at night, and could endanger our house and fence in your house and garage.

We are an elderly retired couple and we were upset by the first fire and now have nightmares because we are worried about the possibility of a fire at night in this RV. A fire could burn for some time without anyone seeing it and there may be propane tanks which could explode. We consider this a dangerous situation

period of fire can start from a careless discarded cigarette and there is garbage, including newspaper and cardboard piled by the house, near the 5<sup>th</sup> wheel. There is also a motorbike parked by the fifth wheel and in the event of fire, the gas tank could explode. Other vehicles parked at the front of the driveway could hinder the firefighters from accessing the back, as the driveway is so narrow that there is no room to walk

We ask that you please remove all the recreational vehicles from the sides, back and front of your property so that we can enjoy a restful night's sleep and not be worried about the danger from fire.

The landlord testified that these neighbours later advised that:

- 1) people other than the tenants were living in the RVs; and
- 2) the tenants were storing many tires on the residential property as well.

The landlord submitted two letters from a municipal bylaw officer. The first dated March 5, 2021 which stated:

A complaint has been received by our office that a recreational vehicle placed on the above noted property is being used as a residence. Upon inspection it was noted that someone is living in the recreational vehicle.

The [municipality] bylaw prohibits this type of residence in any zone. You are requested, immediately upon receipt of this letter, to evict a tenant from the recreational vehicle and bring your property into compliance.

And the second letter dated March 8, 2021, which stated:

A complaint has been received by our office regarding the unsightly condition of the above property. Upon inspection, sufficient quantity of materials was noted to require removal by you

The [municipality] by law imposes a duty upon the owner or occupier of real property to keep their land free of such accumulation and to properly dispose of the same. All materials should be stored within a fully enclosed building or taken to an authorized dump site.

We therefore request that you properly store or remove all such matter on your property within 10 days of receipt of the attached notice.

The landlord submitted photographs of multiple RVs parked on the residential property. From these photos, I cannot determine if the RVs are occupied. He did not submit any photos of tires on the residential property, although I note that, in two of the photos, there appears to be a small amount of debris (mattresses, discarded window mesh) leaned up against the exterior of the rental unit.

The landlord testified that he is afraid that the tenants continue to pose a fire risk to his property by having their RVs parked in its driveway. Additionally, he testified that he has not been able to gain access to the interior of the rental unit and fears that the tenants have damaged it.

The landlord admitted that he has not issued a notice to enter the rental unit but stated that he had attended the rental unit on more than one occasion, knocked on the door, and received no answer.

The landlord also testified that the tenants keep a dog in the rental unit which the rental unit explicitly prohibits.

### **Analysis**

Applications to end a tenancy early are governed by section 56(2) of the Act, which states:

#### **Application for order ending tenancy early**

56(2) The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,

- (a) the tenant or a person permitted on the residential property by the tenant has done any of the following:
  - (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
  - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
  - (iii) put the landlord's property at significant risk;
  - (iv) engaged in illegal activity that
    - (A) has caused or is likely to cause damage to the landlord's property,
    - (B) 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
    - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
  - (v) caused extraordinary damage to the residential property, and
- (b) 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 [*landlord's notice: cause*] to take effect.

Rule of Procedure 6.6 states:

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

So, the landlord bears the evidentiary burden to prove the facts required to satisfy the requirements in section 56 of the Act are met.

Policy Guideline 51 discusses applications for an early end to a tenancy. It states:

Applications to end a tenancy early are for very serious breaches only and require sufficient supporting evidence. An example of a serious breach is a tenant or their guest pepper spraying a landlord or caretaker.

The landlord must provide sufficient evidence to prove the tenant or their guest committed the serious breach, and the director must also be satisfied that it would be unreasonable or unfair to the landlord or other occupants of the property or park to wait for a Notice to End Tenancy for cause to take effect (at least one month).

Based on the evidence presented by the landlord, I do not find that it would be unfair or unreasonable to the landlord or other occupants of the property to wait for a notice to end the tenancy to be issued pursuant to section 47 of the Act (that is, a one month notice to end the tenancy for cause).

The landlord has not provided any evidence relating to the need for urgency for the order of possession. He has testified as to his fear that the tenants have or will cause damage to the interior of the rental unit, but he has not provided any evidence that this is the case. Additionally, he has not taken steps to conduct an inspection of the rental unit in accordance with the Act so as to determine whether this fear is justified.

Furthermore, neither letter from the municipal inspector provide any information which would cause me to believe it would be unreasonable or unfair for the landlord to wait to end the tenancy in accordance with section 47 of the Act.

The letter from the neighbors shows that they are fearful that another fire could occur in one of the other RVs parked on the residential property. They also mention that they are fearful that the RV's could contain propane which would cause the fire to be even more severe than the last time. I note that the letter from the assistant Fire Chief indicated that no propane was discovered indeed damaged RV. I cannot say whether or not propane tanks are present to the other RVs. The landlord has not provided any basis in evidence for me to make such a finding.

Additionally, the neighbours are fearful that a fire could go undetected in an RV at night. As the municipal inspector determined that someone is living in one of the RVs, I am not persuaded that this would be the case.

I appreciate that the neighbors may be fearful of what the tenants might do on the residential property in the future. However, there is no reasonable basis in evidence for me to find that they would engage in any such conduct. Indeed, there is no evidence before me to establish the cause the fire in the RV. I am unsure if it occurred due to negligence of the occupants of the RV or if it was due to some fault of the RV itself or other legitimate piece of equipment located in the RV. Absent evidence of the cause of the fire I am hesitant to end the tenancy on the sole basis that the fire occurred.

For the above reasons, I find that it would not be unfair or unreasonable to the landlord to require him to end the tenancy pursuant to section 47 of the Act. As such, the landlord's application fails to meet the criteria set out in section 56(2)(b) of the Act.

Therefore, it is not necessary for me to make any factual determinations as to whether or not the landlord established the facts necessary to satisfy section 56(2)(a) of the Act. The landlord is at liberty to issue a one-month notice to end tenancy for cause pursuant to section 47 of the Act, on the same grounds that he has sought in order of possession in this application.

Additionally, I expressly make no findings of fact relating to the validity of the 10 Day Notice to End Tenancy for Non-Payment of Rent. The landlord is free to make a further application to end the tenancy pursuant to that notice as well.

### **Conclusion**

I dismiss the landlord's application, without leave to reapply.

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: April 21, 2021

---

Residential Tenancy Branch