



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding H.W. Rooms Inc.  
and [tenant name suppressed to protect privacy]

## **DECISION**

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### Introduction

This hearing dealt with a landlord's application for an order to end the tenancy early and obtain an Order of Possession under section 56 of the Act.

The landlord's agent appeared at the hearing; however, there was no appearance on part of the tenant.

The landlord's agent was affirmed and she confirmed she was not recording the proceeding and was ordered not to do so.

Since the tenant did not appear, I explored service of hearing documents upon the tenant. The landlord's agent testified the proceeding package and evidence was sent to the tenant via registered mail on April 20, 2021. The landlord's agent submitted that Canada Post left two notice cards, which were given to the tenant by the landlord's staff, but the tenant did not pick up the registered mail. Section 90 of the Act deems the recipient to have received documents five days after mailing, even if the recipient refuses to accept or pick up their mail. Therefore, I find the tenant deemed served with the hearing materials and I continued to hear from the landlord's agent without the tenant present.

### Issue(s) to be Decided

Has the landlord established a basis for ending the tenancy early and obtaining an Order of Possession under section 56 of the Act?

### Background and Evidence

The tenancy started on August 15, 2020 and the landlord collected a security deposit of \$297.50. The tenant is required to pay rent of \$595.00 on the first day of every month.

The landlord is seeking an order to end the tenancy early and obtain an Order of Possession under section 56 of the Act given two recent incidents involving the tenant and physical violence on the property.

The landlord's agent testified that the tenant is associated with a gang and the tenant frequently has gang members in his room where they can be heard yelling and screaming. On February 4, 2021 the tenant was stabbed in the face in his room by his so-called guests, resulting in him having to go to the hospital. Then, on April 5, 2021 the tenant stabbed/slashed a female in the elevator of the property while she was attempting to protect her boyfriend from getting hurt by the tenant.

The landlord is concerned for the health and safety of its staff and other tenants given the tenant's association with the gang and the recent violent attacks. The landlord has received complaints from its other tenants about their loss of quiet enjoyment and sense of safety while in the building.

The landlord provided a photograph of the blood stains in the hallway outside of the rental unit and blood spilled in the lobby area of the building as a result of the attacks described above; and, a staff incident report and a letter written by another tenant.

The landlord seeks an Order of Possession as soon as possible.

### Analysis

Under section 56 of the Act, the Director, as delegated to an Arbitrator, may order the tenancy ended earlier than if the landlord had issued a One Month Notice to End Tenancy for Cause ("1 Month Notice") and grant the landlord an Order of Possession. The landlord must demonstrate cause for ending the tenancy and that it would be unreasonable to wait for a 1 Month Notice to take effect.

Below I have reproduced section 56 of the Act:

- 56** (1) A landlord may make an application for dispute resolution to request an order
- (a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and
  - (b) granting the landlord an order of possession in respect of the rental unit.
- (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.

Section 56 of the Act is intended to apply in the most serious of circumstances and the landlord has a high burden to establish an entitlement to remedy under section 56.

Upon consideration of all of the unopposed evidence before me, including the testimony of the landlord's agent, the photographs of blood stains in the common areas of the building, and written account of the incidents described to me, I find the landlord has cause to end the tenancy due to the actions of the tenants, and the actions of the tenants' guests, that include serious physical assault. I accept that the physical violence is unreasonably disturbing other occupants of the property and putting the health and safety of other occupants and the landlord's staff at significant risk. I am further satisfied that it would be unreasonable to wait for a 1 Month Notice to take effect given weapons are being used and the seriousness of the injuries. Therefore, I order this tenancy ended early and I provide the landlord an Order of Possession effective two (2) days after service under section 56 of the Act.

### Conclusion

I have ordered the tenancy is ended and the landlord is provided an Order of Possession effective two (2) days after service upon the tenant, under section 56 of 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: May 07, 2021

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Residential Tenancy Branch