



# 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 pursuant to section 56 of the *Residential Tenancy Act* (the *Act*) for an early end of the tenancy and Order of Possession.

The tenants did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The landlord attended and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord was made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and they testified that they were not making any recordings.

The landlord testified that they served each of the tenants with the notice of application and evidence by registered mail sent on April 23, 2021. The landlord submitted two valid Canada Post tracking receipts as evidence of service. Based on the evidence I find that the tenants are each deemed served with the landlord's materials on April 28, 2021, five days after mailing, in accordance with sections 88, 89 and 90 of the *Act*.

### Issue(s) to be Decided

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

### Background and Evidence

This tenancy began in April 2020. The current monthly rent is \$950.00 payable on the first of each month. The rental unit is a suite in a multi-unit building with 7 units.

The landlord submits that since the start of the tenancy the tenants have caused significant disturbance of the other occupants by engaging in loud fights, causing noise, having hostile interactions with the other occupants of the building and having emergency services called on several occasions.

The landlord issued a 1 Month Notice to End Tenancy for Cause in July 2020 on the basis that the tenants or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to, adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord. The landlord subsequently withdrew the 1 Month Notice as they felt the situation was rectified.

The landlord submits that the situation has continued and worsened and they have received multiple complaints from the other occupants of the rental building. The landlord submitted into evidence some correspondence with the occupants where they express complaints about the tenants.

The landlord has issued a subsequent 1 Month Notice dated March 24, 2021 on the basis that the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

### Analysis

Section 56 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 47 for a landlord's notice for cause.

An application for an early end to tenancy is an exceptional measure taken only when a landlord can show that it would be unreasonable or unfair to the landlord or the other occupants to allow a tenancy to continue until a notice to end tenancy for cause can take effect or be considered by way of an application for dispute resolution.

In order to end a tenancy early and issue an Order of Possession under section 56, 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.

I find that the landlord has provided insufficient evidence to show that the conduct of the tenant is such that it would be unreasonable or unfair to the landlord or other occupants to wait for a notice under section 47 to take effect. While I understand that there have been a number of complaints about the level of noise and disturbance caused by the tenants, I find these do not establish that it would be unreasonable to wait for a notice to end tenancy for cause to take effect.

I put little weight on the landlord's submission that police and emergency services have been called to the property as anyone is able to make a complaint to have services attend. I find that the mere presence of police is not evidence of the significance of the underlying issues.

Based on the written complaints and the landlord's testimony I find that the nature of the issues to be primarily related to noise and some rude interactions. While these may give rise to a basis for the issuance of a notice to end tenancy for cause I find insufficient evidence that it is unreasonable or unfair to wait for such a notice to take effect.

Based on the evidence I find, on a balance of probabilities that the landlord has not shown that the tenant's actions has given rise to a reason for an early end of this tenancy. I find there is insufficient evidence to conclude that the it would be unreasonable or unfair to wait until a notice to end tenancy pursuant to section 47 of the Act could take effect.

### Conclusion

The landlord's application is dismissed in its entirety 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 *Residential Tenancy Act*.

Dated: May 14, 2021

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Residential Tenancy Branch