



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ET, FFL

### Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("Act") for:

- an early end to tenancy and an Order of Possession, pursuant to section 56; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The two tenants did not attend this hearing, which lasted approximately 20 minutes. The two landlords, landlord LM ("landlord") and "landlord JR," attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. Both landlords confirmed that they own the rental unit.

At the outset of this hearing, I informed both landlords that Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* ("Rules") does not permit recording of this hearing by any party. Both landlords confirmed that they would not record this hearing.

I explained the hearing process to the landlords. The landlords had an opportunity to ask questions. The landlords did not make any adjournment or accommodation requests.

This matter was filed as an expedited hearing under Rule 10 of the RTB *Rules*. The landlords filed this application on June 25, 2021 and a notice of hearing was issued by the RTB on June 29, 2021. The landlords were required to serve that notice, the application, and all other required evidence in one package to the tenants, within one day of receiving the documents from the RTB, as per RTB *Rules* 10.2 and 10.3.

The landlord stated that both tenants were served with the landlords' application for dispute resolution hearing package on June 29, 2021, both by way of registered mail to the PO Box address provided by the tenants on the last page of the parties' written tenancy agreement. The landlord provided two Canada Post receipts and confirmed both tracking numbers verbally during the hearing. In accordance with sections 89 and 90 of the *Act*, I find that both tenants were deemed served with the landlords' application on July 4, 2021, five days after their registered mailings to an address provided by the tenants in the parties' tenancy agreement.

I notified the landlords that I did not receive a copy of the notice to end tenancy for unpaid rent or the details letter that they said they submitted to the tenants. I informed them that I could not consider this evidence at the hearing or in my decision because they did not provide a copy to the RTB, as required. I notified the landlords that I would not accept this evidence after the hearing was over, as they had ample time to submit it prior to this hearing, from the time they filed this application on June 25, 2021, to the date of this hearing on July 22, 2021.

#### Issues to be Decided

Are the landlords entitled to end this tenancy early and to obtain an Order of Possession?

Are the landlords entitled to recover the filing fee for this application?

#### Background and Evidence

While I have turned my mind to the landlords' documentary evidence and the testimony of the landlords, not all details of the respective submissions and arguments are reproduced here. The relevant and important aspects of the landlords' claims and my findings are set out below.

The landlord testified regarding the following facts. This tenancy began on June 1, 2020. A written tenancy agreement was signed by both parties. Monthly rent in the amount of \$800.00 is payable on the first day of each month. No security deposit was paid by the tenants to the landlords. The tenants continue to reside in the rental unit.

The landlord stated the following facts. The tenants were arrested for illegal activity. There were drugs and guns involved. The tenants have not paid rent from May to July 2021. The landlords got a call from the provincial hydro company that they disconnected power to the rental unit. The tenants were stealing hydro. There was damage to the hydro equipment, so the landlords will have to pay an electrician and it will cost a lot of money for repairs.

### Analysis

The following RTB *Rules* are applicable and state the following, in part:

*7.4 Evidence must be presented*

*Evidence must be presented by the party who submitted it, or by the party's agent...*

...

*7.17 Presentation of evidence*

*Each party will be given an opportunity to present evidence related to the claim.*

*The arbitrator has the authority to determine the relevance, necessity and appropriateness of evidence...*

*7.18 Order of presentation*

*The applicant will present their case and evidence first unless the arbitrator decides otherwise, or when the respondent bears the onus of proof...*

I find that the landlords did not properly present their claims and evidence, as required by Rule 7.4 of the RTB *Rules*, despite having the opportunity to do so during this hearing, as per Rules 7.17 and 7.18 of the RTB *Rules*.

This hearing lasted 20 minutes and only the landlords attended the hearing, as no other parties were present. The landlords had ample opportunity to present their application. However, the landlords did not go through any of their documentary evidence submitted for this hearing, mentioning only the existence of an affidavit and a newspaper article, but not going through this evidence in any detail. The landlords were repeatedly questioned if they had any other information to provide for this hearing.

Section 56 of the *Act* requires the landlords to show, on a balance of probabilities, that the tenancy must end earlier than the thirty days indicated on a 1 Month Notice, due to the reasons identified in section 56(2)(a) of the *Act* **AND** that it would be unreasonable or unfair for the landlords or other occupants to wait for a 1 Month Notice to take effect, as per section 56(2)(b).

To satisfy section 56(2)(a) of the *Act*, the landlords must show, on a balance of probabilities, that:

- (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;*

On a balance of probabilities and for the reasons stated below, I find that the landlords' application fails the second part of the test under section 56(2)(b) of the *Act*. I find that the landlords did not provide sufficient evidence that it would be "unreasonable" or "unfair" to wait for a 1 Month Notice to be determined.

The landlords did not testify about which one of the above parts of section 56(a) of the *Act*, that the landlords were applying under.

The landlords failed to show the urgency of this situation to demonstrate that it would be "unreasonable" or "unfair" to wait for a 1 Month Notice to be determined. The landlords did not indicate whether they issued a 1 Month Notice to the tenants. They only referred to a notice to end tenancy for unpaid rent, which is unrelated.

The landlords did not indicate when any events occurred or for how long they have been occurring. They provided an affidavit about an event on March 26, 2021 but did not review this document at all during this hearing. They provided a newspaper article, dated March 22, 2021, which they did not review at all during this hearing. The article does not indicate the tenants' or the landlords' names or the rental unit address. Both documents refer to events approximately three months prior to the landlords' application being filed on June 25, 2021.

Accordingly, I dismiss the landlords' application for an early end to this tenancy and an Order of Possession, without leave to reapply.

As the landlords were unsuccessful in this application, I find that they are not entitled to recover the \$100.00 filing fee from the tenants.

### Conclusion

The landlords' entire application is dismissed 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: July 22, 2021

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Residential Tenancy Branch