



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PREMIER CHOICE INVESTMENTS  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ET, FFL

### Introduction

On August 19, 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.

This matter was set for hearing by telephone conference call at 9:30 am on this date. The Landlord and Tenant who self identified as D.H.L. attended the hearing.

The Landlord and the Tenant were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. The parties were informed that recording the hearing is not permitted.

### Preliminary and Procedural Matters.

The Tenant was late attending the hearing, stating that she had forgot. The Tenant stated that she does not know how arbitration works and requested an adjournment in order to retain a lawyer. She stated that she believed the Residential Tenancy Branch would provide her with a lawyer, but she could not explain why she believed that to be true. D.H.L. stated that she took no steps to retain a lawyer prior to this hearing.

The Landlord was asked if they are in agreement for an adjournment and the Landlord stated no. The Landlord stated that the notice of dispute resolution proceeding is clear, and the Tenant was given sufficient time to get a lawyer. The Landlord stated that they served the Tenant with the Notice of Dispute Resolution Proceeding on September 1, 2021.

I find that the Tenant received the Notice of Dispute Resolution Proceeding on September 1, 2021 and had sufficient time to arrange for legal counsel. I find that an adjournment would present significant prejudice to the Landlord and it would cause weeks of delay and I note that the Landlord's application is for an emergency hearing.

The Tenant's request for an adjournment was denied. The hearing proceeded.

### Background

The Landlord and Tenant testified that the tenancy began on May 20, 2020 and is on a month-to-month basis. The parties testified that rent in the amount of \$600.00 is due to be paid to the Landlord by the first day of each month. The parties testified that the Tenant paid a security deposit of \$300.00.

The Landlord testified that they served a One Month Notice to End Tenancy for Cause dated August 4, 2021 ("the One Month Notice") to the Tenant in person on August 4, 2021. The Landlord did not provide a copy of the One Month Notice. The Landlord stated that reasons for ending the tenancy within the One Month Notice are:

*Tenant or a person permitted on the property by the Tenant has:*

- *Seriously jeopardized the health or safety or lawful right of another occupant or the Landlord*
- *Put the Landlord's property at significant risk*

*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*
- *Jeopardize a lawful right or interest of another occupant or the Landlord*

The Landlord stated that the Tenant has not served them with any notification that the One Month Notice was disputed.

On August 19, 2021, the Landlord applied for an early end of tenancy and an order of possession for the rental unit. The Landlord was asked why the Landlord applied for an early end of tenancy rather than applying for an order of possession based on the undisputed One Month Notice. The Landlord replied that they believe that a person who caused damage to the rental property may return to take care of business. The Landlord stated I can't predict if there will be retribution or retaliation. The Landlord stated that a couple years ago someone came to the property with a shotgun and blasted away.

The Landlord was asked if the behavior that prompted the Landlord to issue the One Month Notice is that same behavior they are relying on with regard to the application for an early end of tenancy and the Landlord replied yes.

The Landlord testified that on July 31, 2021 the Tenant allowed access into the building to a person who removed a fire extinguisher from the wall of the property and stole it. The Landlord stated that they reported the theft to the police. The Landlord provided photographs of the person in the act of stealing the fire extinguisher. The Landlord was able to recover the fire extinguisher.

The Landlord stated that undesirable people attend the residential property asking for the Tenant by name to purchase drugs. The Landlord stated that the Tenant is occasionally seen on the rental property to be under the influence of drugs and was overheard saying that she owes a drug dealer \$400.00.

The Landlord stated that the Tenant is jeopardizing the health or safety or lawful right of another occupant or the Landlord.

In reply, the Tenant testified that she received the One Month Notice, but then stated that she did not. The Tenant appeared confused because she then acknowledged that she had received the One Month Notice and had applied to the Residential Tenancy Branch to dispute it.

The Residential Tenancy Branch case management system indicates that Tenant applied to dispute the One Month Notice but did not complete the application process. The One Month Notice is not properly disputed and the time to do so appears to have expired.

The Tenant stated that the person who stole the fire extinguisher was her visitor who came to her window asking for help. She stated that she opened the door for him, and he pushed his way in. She stated that she did not allow him in. She stated that she then went to use the bathroom and during that time her visitor took the fire extinguisher and left the property.

The Tenant stated that she does not sell drugs to people on the property.

### Analysis

Residential Tenancy Branch Policy Guideline #51 Expedited Hearings provides the following information:

*Applications to end a tenancy early are for very serious breaches only and require sufficient supporting evidence. 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). Without sufficient evidence the arbitrator will dismiss the application.*

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.** [My emphasis]

The legislation is clear that the director may end a tenancy and issue an order of possession only if satisfied there is sufficient cause 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.

In this case, I find that the Landlord did issue a One Month Notice. I find that Landlords reasons for an early end of tenancy are the same reasons for the issuance of the One Month Notice. I find that there has been no new intervening act on the part of the Tenant since the One Month Notice was issued.

I have considered the Landlord's statement that they applied for an early end of tenancy because of their concern that the person who stole the extinguisher the may return and the Landlord cannot predict retribution. The Landlord did not provide any other evidence to satisfy me that this is a legitimate concern. I find that the reasons provided by the Landlord do not establish that 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 Landlord's application for an early end of tenancy and an order of possession is dismissed.

Based on the testimony before me, it appears that the Landlord can proceed with an application for an order of possession based on the undisputed One Month Notice. That issue is not before me and the Landlord is not permitted to amend the application before me to include an order of possession based on issuance of a One Month Notice to End Tenancy for Cause.

The Landlord is at liberty to apply for an order of possession based on the service of a One Month Notice that was received by the Tenant and not disputed.

### Conclusion

The Landlord applied for an early end of tenancy and an order of possession. The Landlord provided insufficient evidence that 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 Landlord's application for an early end of tenancy and an order of possession is dismissed.

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: September 14, 2021

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Residential Tenancy Branch