



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET, FFL

### Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Landlord on August 14, 2021, under *the Residential Tenancy Act* (the “*Act*”) for an early end of tenancy pursuant to section 56 of the *Act* and an order to recover the cost of filing the application from the Tenant.

The Landlord, the Landlord’s Advocate (the “Landlord”) and three Tenants attended the hearing and were each affirmed to be truthful in their testimony. The Landlord and Tenants were provided with the opportunity to present their evidence orally and in written and documentary form and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before me. Both parties were advised of section 6.11 of the Residential Tenancy Branches Rules of Procedure, prohibiting the recording of these proceedings.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

### Issues to be Decided

- Is the Landlord entitled to an early end of tenancy and an Order of Possession, under section 56 of the *Act*?
- Is the Landlord entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

### Background and Evidence

While I have considered all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The tenancy agreement recorded that this tenancy began on September 15, 2016, as a month-to-month fixed tenancy. The Landlord testified that rent is currently in the amount of \$2,492.00 and is to be paid by the first day of each month. The tenancy agreement also recorded that the Tenants paid the Landlord a \$1,150.00 security deposit at the outset of the tenancy. The Landlord submitted a copy of the tenancy agreement into documentary evidence.

The Landlord testified that on July 17, 2021, the Tenants entered their property, which is adjacent to the rental property and verbally threatened the spouse of the Landlord and the Landlord's employees who were working on the property at the time. The Landlord testified that when their spouse and employees attempted to leave the area, the Tenant followed them down the road, blocking their entrance to another property the Landlord owned and that several of the Tenant's friends assisted in using their cars to surround the Landlord's vehicle and blocking their path and flashing their lights at them.

The Landlord testified that once they got out of the area, the police were called, but that the Tenants denied that this event happened, so no charges were filed. The Landlord submitted a copy of the police report, dated August 17, 2021, into documentary evidence.

The Landlord was asked why they waited so long from the date of the incident to file for a hearing under section 56 of the Act; the Landlord responded that they were waiting until they received the police report before filing. The Landlord offered no explanation as to why they filed three days before the date of the police report.

Both the Landlord and Tenant agreed that the Landlord issued a one-month notice to end tenancy for cause to the Tenants, dated July 19, 2021 and that the Tenants filed to dispute that notice on July 28, 2021.

### Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an Early End to Tenancy and 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 of the *Act* for a landlord's notice for cause.

In order to end a tenancy early and issue an Order of Possession under section 56, a landlord has the burden of proving that:

- There is sufficient cause to end the tenancy such as; unreasonably disturbed another occupant, seriously jeopardized the health, or safety, or a lawful right, or interest of the landlord, engaged in illegal activity, or put the landlord's property at significant risk; and
- That it would be unreasonable or unfair to the landlord or other occupants to wait for a one month notice to end tenancy for cause under section 47 of the *Act* to take effect.

I have reviewed the Landlords' entire testimony and documentary evidence submissions to these proceedings, and while the Tenants' conduct may have been disturbing to the Landlord and others, I find the circumstances of this case are not so significant or severe that it would have been unreasonable for the Landlord to have to wait for a One-Month Notice to take effect if there was sufficient cause to end the tenancy. Therefore, I find that the Landlord has fallen short of the standard required to obtain an early end of tenancy under section 56 of the *Act*.

Therefore, I dismiss the Landlord's application for an early end of tenancy under section 56 of the *Act*, as I find it neither unreasonable nor unfair that the Landlord would need to wait for a One-Month Notice to take effect and for the required hearing process under that notice.

Section 72 of the *Act* gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Landlord has not been successful in their application, I find that the Landlord is not entitled to recover the \$100.00 filing fee paid for this hearing.

Conclusion

I dismiss the Landlord's application for an early end of tenancy pursuant to section 56 of the *Act* and to recover their application fee. 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: September 14, 2021

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Residential Tenancy Branch