



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET, FFL

### Introduction

On September 1, 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. The matter was scheduled as teleconference hearing.

The Landlord attended the hearing; however, the Tenants did not. The Landlord testified that the Tenants were served with the Notice of Dispute Resolution Proceeding by posting it to the Tenants’ door on September 15, 2021. The Landlord provided a proof of service document with a witness attesting to the service. I find that the Tenants were served with notice of the hearing in accordance with sections 89 and 90 of the Act.

The hearing proceeded. The Landlord was provided the opportunity to present her evidence orally and in written and documentary form, and to make submissions at the hearing.

### Background

The Landlord testified that the tenancy began on May 23, 2021, as a one-year fixed term tenancy. Rent in the amount of \$1,400.00 is due to be paid to the Landlord by the first day of each month. The Tenants paid a security deposit of \$700.00 and a pet damage deposit of \$700.00.

The Landlord testified that the Tenants are still living in the rental unit and the Landlord wants to pursue her application for an early end of tenancy and for an order of possession.

The Landlord testified that there have been complaints received that the Tenants are making loud noise.

The Landlord testified that the building manager informed her the Tenant P.R. threatened his co-tenant and the building manager with a knife on July 31, 2021. The building manager did not attend the hearing to give testimony. The Landlord stated that the building manager sent her a document that provides:

*“Here is a short video clip of him at the front gate around end of July when he and his friend entered the building several times with a knife and tried to attack Amber and myself. I had to call police repeatedly and they would come and remove him and tell him to stay away, then he would return and grab the door after someone else entered using a fob, and force his way in.”*

The document provides two URL listings for YouTube videos. The Landlord also provided text messages exchanged between the Landlord and Tenant A.C.

The Landlord was asked whether or not the building manager called the police regarding the alleged threat and she replied that she does not know. The building manager was asked whether the Tenant attacked the manager or whether he made verbal threats. The Landlord replied that she believes there were verbal threats. The Landlord did not provide details on the threat that was allegedly made.

The Landlord testified that the Tenants permitted access into the property to two individuals who attempted to break into mailboxes causing damage.

The Landlord testified that on August 6, 2021 a One Month Notice to End Tenancy for Cause was issued to the Tenants for the same reasons she provided above. The Landlord testified that the Tenants did not dispute the One Month Notice.

The Landlord was asked why she applied for an early end of tenancy rather than an order of possession based on the undisputed One Month Notice. The Landlord replied that she did not know she could apply for an order of possession based on the undisputed One Month Notice and she was hoping the Tenants would move out at the end of August 2021.

The Landlord stated that the Tenant P.R. remains living with his cotenant in the rental unit.

### 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]

While the Landlord submitted testimony regarding the Tenant that is of concern, the building manager was not present to give evidence on what threats were made and whether the Tenant directly threatened him with a knife. It is unclear to me whether the Tenant used a knife to access the building, or whether the Tenant threatened the co-tenant or Landlord while holding a knife.

With respect to the seriousness of the incident, I note that there is no police report before me, and the Landlord did not immediately apply for an early end of tenancy and instead issued a One Month Notice to End Tenancy for Cause on August 6, 2021 for the same reasons as she provided in this hearing.

The Landlords digital video evidence is not properly before me as the Landlord did not provide the Residential Tenancy Branch with digital copies of the two video files.

I find that allegations of the Tenants' making noise and the allegation that the Tenants allowed access to individuals who damaged the rental property is insufficient to justify an immediate early end of tenancy.

I find that the Landlord provided insufficient evidence that the Tenant P.R. poses an immediate and severe risk to the rental property; other occupants; or the Landlord, and 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.

The Landlord is at liberty to apply for an order of possession based on an undisputed One Month Notice to End Tenancy for Cause.

### Conclusion

The Landlord applied for an early end of tenancy and an order of possession. The Landlord provided insufficient evidence that the Tenants pose an immediate and severe risk to the rental property, other occupants, or the Landlord, and 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: October 04, 2021

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Residential Tenancy Branch