



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET, FFL

### Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding the above-noted tenancy. The landlord applied for:

- an order for early termination of a tenancy, pursuant to section 56;
- an authorization to recover the filing fee for this application, under section 72.

Landlord MP and tenants ZG and RA attended the hearing. The landlord was assisted by agent SP (the landlord). Witness for the landlord KP also attended. All were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

At the outset of the hearing the attending parties affirmed they understand it is prohibited to record this hearing.

Per section 95(3) of the Act, the parties may be fined up to \$5,000.00 if they record this hearing: "A person who contravenes or fails to comply with a decision or an order made by the director commits an offence and is liable on conviction to a fine of not more than \$5 000."

As both parties were present service was confirmed. The parties each confirmed receipt of the application and evidence (the materials). Based on the testimonies I find that each party was served with the respective materials in accordance with sections 88 and 89 of the Act.

### Issues to be Decided

Is the landlord entitled to:

- an order for the early termination of the tenancy?
- an authorization to recover the filing fee?

### Background and Evidence

While I have turned my mind to the evidence and the testimony of the attending parties, not all details of the submission and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below. I explained rule 7.4 to the attending parties; it is the landlord's obligation to present the evidence to substantiate the application.

Both parties agreed the tenancy started in October 2014. Monthly rent is \$1,400.00, due on the first day of the month. At the outset of the tenancy a security deposit of \$750.00 was collected and the landlord holds it in trust.

The landlord applied on September 09, 2021 to end the tenancy early on the basis that the tenants have significantly interfered with and disturbed the landlord and other tenants.

The landlord affirmed on June 14, 2021 at 3:00 P.M. he had an argument with the tenants. Tenant ZG told the landlord "you are greedy, selfish and want money", tenant RA told the landlord "this house is a piece of shit" and pushed and punched the landlord. The landlord called the police, went to the hospital, and used a cast for three weeks.

Tenant RA affirmed the landlord harassed him about an illegal rent increase and was disrespectful. Tenant RA affirmed the landlord pushed tenant ZG (his mother) with a box and yelled at her, tenant RA pushed the landlord away from tenant ZG to protect her. Tenant RA did not punch the landlord.

The landlord requested the police report on June 17, 2021 and obtained it on July 17, 2021. The police report states:

[landlord] got into an argument over the amount of rent and [landlord] shoved her with a box and [redacted] pushed the landlord.

[landlord] stated he was over to do some maintenance on the above address and went to speak to [redacted] about increasing rent, he stated that they got into an argument and [redacted] started to push him, he stated he hurt his ankle.

[...]

No further Police action required. File concluded.

The landlord submitted into evidence a letter signed by neighbour RS on July 25, 2021:

This letter is to inform the reader that on June 14, 2021 at approximately 3:00pm I witness an incident that occurred at [tenancy address]. I was at my residence next door... At this time, I heard loud voices and looked up to see what was going on. I saw and heard [RA] and [the landlord] talking loudly. RA was aggressively in [the landlord's] face and then witnessed him push him. The then proceed to punch [the landlord]. I witnessed him take a full swing/punch but he missed. I heard [the landlord] say "I don't want to fight you", "What are you doing."

The landlord submitted into evidence a letter signed by neighbour JM on August 02, 2021:

On June 14<sup>th</sup> I witnessed an incident between my landlord and another tenant. He was having a conversation with a lady; shortly after I saw a young male come outside and raise his voice towards [landlord], he then approached and aggressively pushed the landlord to the ground. The lady then told the male to go back inside. The landlord then backed away and made a phone call to who I assumed to be the police.

The landlord submitted medical documents dated June 14 and 20, July 21 and 23, 2021.

The landlord affirmed tenant RA has a dog, conducted renovations not authorized by the landlord and threatened other tenants. Tenant RA affirmed he has a dog, he did not conduct renovations and did not threaten other tenants.

### Analysis

The landlord has applied to end the tenancy for cause without giving the tenant a one month notice to end tenancy. This is provided for in section 56 (2) of the Act, where it states:

(2)The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,

(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;

(v) caused extraordinary damage to the residential property, and

**(b) 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 [landlord's notice: cause] to take effect.**

(emphasis added)

Residential Tenancy Branch Policy Guideline 51 explains the importance of landlord providing evidence that is unreasonable or unfair to wait to end the tenancy with a one month notice:

Applications to end a tenancy early are for very serious breaches only and require sufficient supporting evidence. An example of a serious breach is a tenant or their guest pepper spraying a landlord or caretaker.

**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.** Evidence that could support an application to end a tenancy early includes photographs, witness statements, audio or video recordings, information from the police including testimony, and written communications. Examples include:

- A witness statement describing violent acts committed by a tenant against a landlord;
- Testimony from a police officer describing the actions of a tenant who has repeatedly and extensively vandalized the landlord's property;
- Photographs showing extraordinary damage caused by a tenant producing illegal narcotics in a rental unit; or
- Video and audio recordings that clearly identify a tenant physically, sexually or verbally harassing another tenant.

(emphasis added)

Pursuant to Rule of Procedure 6.6, the landlord has the onus of proof to establish, on a balance of probabilities, the reasons to end the tenancy early. This means that the landlord must prove, more likely than not, that the facts stated on the application happened and it would be unreasonable, or unfair to the landlord or other tenants, to wait for a notice to end the tenancy under section 47 [landlord's notice: cause] to take effect.

Based on the convincing testimony provided by the landlord and the neighbours' letters dated July 25 and August 02, 2021, I find tenant RA pushed the landlord on June 14, 2021.

The landlord obtained the police file on July 17, 2021. Neighbour RS letter is dated July 25, neighbour JM letter is dated August 02 and the medical documents are dated between June 14 and July 23, 2021. The landlord submitted this application on September 09, 2021, almost three months after the June 14, 2021 incident. The landlord did not explain why it would be unreasonable to wait for a notice to end tenancy under section 47 of the Act.

I find it would not be unreasonable or unfair to the landlord and other occupants of the residential property to wait for a notice to end tenancy under section 47 of the Act. The landlord's application does not meet the requirement of section 56(2)(b) of the Act.

I find that having a dog is not serious and urgent enough to end the tenancy pursuant to section 56 of the Act.

The parties offered conflicting testimony about renovations and threats against other tenants. In cases where two parties to a dispute provide equally plausible accounts of events or circumstances related to a dispute, the party making a claim has the burden to provide sufficient evidence over and above their testimony to establish their claim.

The landlord did not provide any documentary evidence to support these allegations. The landlord did not call any witnesses. I find the landlord has failed to prove, on a balance of probabilities, that the tenants conducted renovations not authorized and that tenant RA threatened other tenants.

Therefore, I dismiss the landlord's application for an early end to the tenancy pursuant to section 56 of the Act.

As the landlord is not successful in this application, the landlord must bear the cost of the filing fee.

For the purpose of educating the landlord, I note that under section 19(1) of the Act, a landlord is not permitted to accept either a security deposit or a pet damage deposit that is greater than the equivalent of 1/2 of one month's rent payable under the tenancy agreement. The value of the security deposit accepted by the landlord was unlawful.

### Conclusion

I dismiss the landlord's application without leave to reapply. The tenancy continues 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: October 18, 2021

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Residential Tenancy Branch