



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET

### Introduction

The Landlord applies for an early termination of the tenancy pursuant to s. 56 of the *Residential Tenancy Act* (the “*Act*”).

R.L. appeared as agent for the Landlord. The Tenant did not appear, nor did someone appear on his behalf.

The Landlord’s agent affirmed to tell the truth during the hearing and was given a full opportunity to be heard, to present sworn testimony, question the other party, and to make submissions. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. The Landlord’s agent confirmed that he was not recording the hearing.

The Landlord advised that they had served the Notice of Dispute Resolution and their evidence by posting it to the Tenant’s door on September 23, 2021. An affidavit of service was put into evidence by the Landlord confirming these details. I find that the Notice of Dispute Resolution and evidence was served in accordance with s. 89 of the *Act*. Pursuant to s. 90 of the *Act*, I deem the Tenant to have been served with the application materials on September 26, 2021.

In accordance with Rule 7.1 of the Rules of Procedure, the hearing began as scheduled at 11:00 AM on October 14, 2021. I confirmed that the correct dial-in numbers and codes were provided within the Notice of Dispute Resolution. Rule 7.3 of the Rules of Procedure states:

### **7.3 Consequences of not attending the hearing**

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

Finding that the Tenant was properly served with the Notice of Dispute Resolution, the hearing was conducted without participation from the Tenant.

#### Issue(s) to be Decided

- 1) Whether the tenancy should end early and without notice pursuant to s. 56 of the *Act*?

#### Background and Evidence

The parties were given an opportunity to present evidence and make submissions. I have reviewed all written and oral evidence provided to me by the parties, however, only the evidence relevant to the issue in dispute will be referenced in this decision.

The Landlord provided a written copy of the tenancy agreement, which sets out that the tenancy began on September 17, 2020. Rent is payable in the amount of \$800.00 per month. The Landlord holds a security deposit of \$400.00 in trust for the Tenant. The Landlord's agent confirmed the details of the tenancy at the hearing.

The Landlord advised that the Tenant continues to reside within the rental unit.

The Landlord advised that the rental unit is in a multi-unit residential property and that the Tenant's neighbouring unit was found to be infested with bed bugs. The Landlord retained the services of a pest control company, who advised of the need to treat all adjacent units to effectively eliminate the bed bug infestation. Pursuant to the recommendation, the Landlord issued a notice to the Tenant dated September 3, 2021 which indicated that the Landlord needed access to the rental unit on September 9, 2021 to treat it for bed bugs.

R.J. attended the rental unit on September 9, 2021 with the pest control technician on behalf of the Landlord. The Landlord indicated that the Tenant had prepared his rental unit for the purposes of facilitating the pest control treatment. Upon arriving at the rental

unit, the Landlord indicated that the Tenant expressed concern for his personal health and sought assurances that the chemical treatment would not adversely impact his health. In the Landlord's telling, the Tenant represented having chronic obstructive pulmonary disease ("COPD").

R.J. advised having heard the pest control technician assure the Tenant that the treatment chemical was safe and used within hospitals. The only request was that the Tenant vacate the rental unit for 3 to 4 hours to allow for the treatment and time for the chemical treatment to dissipate from within the unit.

Despite the assurances from the technician, the Landlord indicated the Tenant became agitated and began to threaten legal action against the technician and requested a written assurance from the technician that he would be safe if the chemical was used. The technician refused and the Tenant refused to allow entry into the rental unit. A written statement from R.J. indicates that the Tenant threatened to call the police if they entered into the rental unit. The technician and the Landlord left and proceeded to access the other units that needed treatment.

The Landlord argues that waiting the several months for a One-Month Notice to End Tenancy to take effect and reach a hearing would be unreasonable on the basis that the bed bug infestation is a present and growing health concern for the other residents of the residential property. The Landlord further indicated that there were two other units who refused access to the Landlord and the pest control technician.

The pest control company provides a 30-day guarantee that the bed bugs would be eliminated if the treatment course is followed. The Landlord expressed concern that the guarantee has lapsed and that there may be additional costs associated with treatments, which were necessitated by not having access to the Tenant's rental unit.

### Analysis

The Landlord applies for an early termination of the tenancy pursuant to s. 56 of the *Act*. A landlord may end a tenancy early under s. 56 where a tenant or a person permitted on the residential property by the tenant:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- 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; or
- caused extraordinary damage to the residential property,

These grounds, as set out in s. 56(2)(a), mirror those found within s. 47(1)(d) to (f). The key difference between these sections of the act is that under s. 56 no notice is given to end the tenancy on the basis that it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for a one-month notice given under s. 47 to take effect.

Policy Guideline 51 sets out, at page 4, that applications to end a tenancy early are for very serious breaches only and require sufficient supporting evidence. Policy Guideline 51 provides examples, including acts of assault, vandalism, production of illegal narcotics, and sexual harassment.

I accept the Landlord's sense of urgency for treating the bed bugs within the residential property and further accept the adverse impact this has on other residents. I do not accept, however, that the circumstances warrant the early termination of the tenancy. Termination of a tenancy under s. 56 are for circumstances in which a tenant or a person permitted onto the residential property by the tenant present a clear and present danger to the others and/or the property.

Based on the Landlord's testimony, the Tenant's behaviour on September 9, 2021 was certainly discourteous and unfriendly. However, I would not characterize the threat of legal action by the Tenant if he suffered injury from the chemical treatment or threats to call the police if the Landlord accessed the rental unit is sufficiently serious to justify ending the tenancy without notice.

Though there may be a greater delay in seeking to enforce a One-Month Notice to End Tenancy, the Landlord has not clearly set out that waiting would be unreasonable or unfair. By the Landlord's own admission, there are other units within the residential property that refused entry and, presumably, the complete treatment of the residential property for bed bugs would not be completed if the Tenant were to be evicted. There is also the option of obtaining an order authorizing entry into the rental unit as

contemplated by s. 29(1)(d) of the *Act*, though this was not addressed by the Landlord in its submissions.

I find that the Landlord has failed to establish that it would be unreasonable or unfair to wait for a one-month notice given under s. 47 to take effect. Given this, the Landlord's application is dismissed, and the tenancy shall continue until it is ended in accordance with the *Act*.

### Conclusion

The Landlord's application to end the tenancy early pursuant to s. 56 of the *Act* is hereby dismissed without leave to reapply. The tenancy shall continue until it is ended in accordance with *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 14, 2021

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Residential Tenancy Branch