



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET

### Introduction

This hearing dealt with the Landlords' Application filed under the *Residential Tenancy Act* (the "Act") for an early end of tenancy pursuant to section 56 of the *Act*. The matter was set for a conference call.

Both the Landlords and one of the Tenants with their Advocate (the "Tenants") attended the hearing and were each affirmed to be truthful in their testimony. The Landlords and the Tenants were provided with the opportunity to present their evidence orally and in written and documentary form and to make submissions at the hearing. 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

- Are the Landlords entitled to an early end of tenancy and an Order of Possession under section 56 of the *Act*?

### Background and Evidence

While I have turned my mind to 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 Landlords testified that in July 2021, they found the Tenants had put their property at risk due to the Tenants' hoarding activities on the property and that the Tenants were keeping the property in an unclean state. The Landlord testified that they served a Two-Month Notice to end tenancy on September 1, 2021, after discovering the condition of the property, and that the Tenants did not move out in accordance with that notice as they had filed to dispute the Notice.

When the Landlords were asked to provide testimony as to why they had waited so long after discovering the Tenants' hoarding and sanitation issues before filing for this expedited hearing under section 56 of the *Act*, the Landlords testified when they received the Tenant's Notice of Hearing documents, showing that the Tenant had filed to dispute the Notice to end tenancy and the hearing for that dispute was not until January 20, 2021, they decided that this was too long to wait and they decided to file for these proceedings.

### Analysis

Based on the above, the 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 I find that while the Tenants' conduct may have been

disturbing to others, the Landlords' actions of issuing a Two-Month Notice on September 1, 2021, then waiting 31 days to file for these proceedings shows that on a balance of probabilities, the Tenants' conduct was not so severe that waiting for a Notice to take effect would be unreasonable.

Section 56 of the *Act* provides an opportunity for a landlord to end a tenancy without the need for issuing a Notice in circumstances when a tenant has done something so wrong that the need to wait for a Notice to take effect would be unreasonable. In this case, I find that the Landlords' own actions showed that they were willing to wait for a Two-Month Notice to take effect and that this application is more in the nature of an attempting to use section 56 of the *Act* to jump the hearing queue with the Residential Tenancy Branch. Consequently, I find the circumstances of this case are not so significant or severe that it would have been unreasonable for the Landlords to have to wait for a Notice to take effect if there was sufficient cause to end the tenancy.

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

### Conclusion

I dismiss the Landlords' application for an early end of tenancy. 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: November 12, 2021

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Residential Tenancy Branch