



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **ET, FFL**

### Introduction

This expedited hearing dealt with an application filed by the landlord pursuant the *Residential Tenancy Act* (the “Act”) for:

- An early end to tenancy because the tenant poses an immediate and severe risk to the rental property, other occupants or the landlord, pursuant to section 56 and
- Authorization to recover the filing fee from the other party pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:55 a.m. to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord attended the hearing, represented by DH (“landlord”). The landlord was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord testified that on December 12, 2021, he served the Notice of Expedited Hearing to the tenant by email to the email address provided as an address for service. A proof of service document was provided as evidence by the landlord. I deem the tenant sufficiently served with the Notice of Expedited Hearing three days after it was sent to the tenant by email pursuant to sections 43 and 44 of the *Regulations*.

### Issue(s) to be Decided

Has the tenant significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property?

Has the landlord provided sufficient evidence to show it would be unreasonable or unfair to the landlord or other occupants of the residential property to wait for a notice to end tenancy under section 47 to take effect?

### Background and Evidence

The tenant did not provide any documentary evidence for this hearing. While I have turned my mind to all the documentary evidence and the testimony of the landlord, not all details of his arguments are reproduced here. The principal aspects of the landlord's position has been recorded and will be addressed in this decision.

The landlord gave the following undisputed testimony. The rental unit is a room in a single-room occupancy ("SRO") building. There are thirteen people living on the same floor with the tenant, sharing a common kitchen, bath and hallway. The tenancy with this tenant began on July 9, 2021 with rent set at \$700.00 per month payable on the first day of each month. A security deposit of \$350.00 was collected from the tenant which the landlord continues to hold.

The landlord testified that as soon as the tenant moved in, he began to make the other occupants of the residential property uncomfortable with verbal and physical aggression. The tenant would shout at the other occupants, mock them and stare at them menacingly when they encounter the tenant. The tenant would also aggressively bump the other occupants and their guests with his shoulder when passing by them. The landlord provided emails from the other occupants of the residential property relating the same. The landlord testified that the other occupants are afraid to use the common areas of the residential property for fear of running into the tenant.

On October 4, 2021, the landlord served the tenant with a one month notice to end tenancy for cause by email. The tenant did not file an application to dispute this notice to end tenancy and a hearing has been set for March, based on the landlord's application seeking an order of possession based on this notice to end tenancy. The file number for the landlord's application is recorded on the cover page of this decision.

The reason for ending the tenancy stated on the notice to end tenancy is because the tenant significantly interfered with or or unreasonably disturbed another occupant or the landlord. The "details of cause" recited by the landlord was similar in nature to the reasons provided for this hearing.

### Analysis

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

In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that 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 interests 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;
- engaged in illegal activity that 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;
- engaged in illegal activity that 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, the tenant 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.**

Residential Tenancy Branch Policy Guideline PG-51 [Expedited Hearings] provides further clarification at part B:

... there are circumstances where the director has determined it would be unfair for the applicant to wait 22 days for a hearing. These are circumstances where there is an **imminent danger to the health, safety, or security of a landlord or tenant**, or a tenant has been denied access to their rental unit. (bold emphasis added)

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).

As ending a tenancy early strips a tenant of their lawful right to a month's notice to end the tenancy, Orders for Possession issued under section 56 of the *Act* are reserved for the most dire or urgent of situations. The testimonial and evidentiary material presented by the landlord mostly relate to aspects of intimidation, mockery and harassment felt by the other occupants of the residential property based on the actions of the tenant. On the other hand, shoulder checking the other occupants and their guests, is reprehensible and indicative of the tenant's aggressive demeanour. Is this sufficient reason to end the tenancy early without giving the tenant the month's notice as required under section 47?

In my opinion, it is not. As the policy guideline states, applications to end a tenancy early are for **very serious breaches only** and require sufficient supporting evidence. There must be an **imminent danger** to the health, safety, or security of a landlord or tenant. The tenant's aggression has amounted to shoulder bumps, mockery and unspecified threats. While they may be uncomfortable living alongside the tenant, I have insufficient evidence from the landlord to satisfy me that the tenant would imminently hurt them. I note here that none of the other occupants of the residential property provided testimony regarding the actions of the tenant.

Based on the evidence before me, I am clearly satisfied that the tenant has significantly interfered with or unreasonably disturbed the other occupants of the residential property. The tenant's actions would be sufficient reason to end the tenancy for cause under section 47(1)(d). Despite this, I find the landlord has not satisfied me the tenancy should end early pursuant to section 56, as I don't find it would be unreasonable for the other occupants of the residential property to wait for the notice to end tenancy under section 47 to take effect. 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.

Consequently, 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.

#### Conclusion

The application for an early end to the tenancy is dismissed without leave to reapply.

As the landlord's application was not successful, the landlord is not entitled to recover the \$100.00 filing fee for the cost of this application.

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: January 13, 2022

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Residential Tenancy Branch