



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      ET FFL

### **Introduction**

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("the *Act*") for an early end to this tenancy and an Order of Possession pursuant to section 56; and authorization to recover the filing fee for this application, pursuant to section 72.

BG appeared for the landlords in this hearing. Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. Both parties were clearly informed of the RTB Rules of Procedure about behaviour including Rule 6.10 about interruptions and inappropriate behaviour, and Rule 6.11 which prohibits the recording of a dispute resolution hearing. Both parties confirmed that they understood.

At the beginning of the hearing JA testified that he had moved out approximately two months ago, and is no longer a tenant or occupant. The landlord testified that they could not confirm that JA had moved out, and did not want to remove JA as a tenant on the application. Accordingly, JA's name was not removed as a named tenant for the purposes of these proceedings.

The tenants confirmed receipt of the landlords' application for dispute resolution ('Application'). In accordance with section 89 of the *Act*, I find that the tenants duly served with the Application. All parties confirmed receipt of each other's evidentiary materials and that they were ready to proceed.

### **Issues(s) to be Decided**

Are the landlords entitled to an early end of tenancy and an Order of Possession?

Are the landlords entitled to recover the filing fee for this application from the tenants?

### **Background and Evidence**

While I have turned my mind to all the documentary evidence properly before me and the testimony provided in the hearing, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below

This fixed-term tenancy began on May 19, 2021, with monthly rent currently set at \$2,650.00, payable on the first of the month. The landlords collected a security deposit in the amount of \$1,325.00, which the landlords still hold.

BG testified in the hearing that they filed this application as they attended the property to serve the tenant notices for inspection and a Notice to End Tenancy for Unpaid Rent, and the tenant threatened the landlord with a knife, and said that she would kill the landlord. The landlord testified in the hearing that the incident took place on December 9, 2021, but confirmed later in the same hearing that the date should be December 7, 2021. The landlord filed a police report following this incident, and believes that the police are still investigating.

The landlord testified that they are concerned as the tenant has failed to pay rent, and the landlord also believes that there is considerable damage to the home. The landlord testified that they are unable to attend on the property after being threatened as they are now fearful for their safety. A hearing is set for January 25, 2022 to deal with the matter pertaining to the 10 Day Notice.

The tenant PS testified that there was damage to the door following a domestic dispute with JA. JA testified that there was damage to a door following the incident. PS submitted photos and testified that there no other damage, and that the only damage was not caused by her, and was in relation to the incident. PS also denies threatening the landlord, and testified that she is not home on Tuesdays, including December 7, 2021 when the alleged threat took place. The tenant testified that the landlord was fabricating this threat in order to end the tenancy.

### **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 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 of the *Act*, 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.*

The landlord confirmed that the tenant has been served with a 10 Day Notice to End Tenancy for Unpaid Rent, and a hearing has been set to deal with that matter. The landlords have not served the tenant with a 1 Month Notice to End Tenancy. The landlords, in their application, is attempting to obtain an early end to tenancy as they feel the tenant has acted in a threatening manner, and are worried about their safety, as well as the condition of the home.

Separate from whether there exist reasons that would enable a landlord to obtain an Order of Possession for Cause, the second part of section 56 of the *Act* as outlined above would only allow me to issue an early end to tenancy if I were satisfied that it would be unreasonable or unfair to the landlord to wait until an application to end the tenancy for cause were considered. In this case, I find that the landlord's application falls well short of the requirements outlined in section 56 of the *Act*. An early end to tenancy is to be used only in situations where there is a compelling reason to address the dispute very quickly and when circumstances indicate that the standard process for obtaining an Order of Possession following the issuance of a 1 Month Notice for Cause would be unreasonable or unfair.

Despite the landlords' concerns about the tenant's behaviour, the landlords have not issued the tenant any 1 Month Notices to End Tenancy for Cause. The landlords'

failure to pursue an Order of Possession pursuant to a 1 Month Notice does not automatically qualify them to apply under section 56 of the Act. Although the landlord has provided supporting evidence to demonstrate that the police have attended and have provided the landlord with a police file number for the incident, I find that the landlord has not provided sufficient evidence to support that the tenant engaged in threatening behaviour towards the landlords.

The landlord also referenced significant damage to the home. Although JA did confirm that there is damage to the door, in light of the evidence before me I am not satisfied that the landlord had provided sufficient evidence to support this claim.

Based on the evidence and testimony before me, I find that the landlords have failed to provide sufficient and compelling evidence to support why the standard process of obtaining an Order of Possession following the issuance of a 1 Month Notice for Cause to be unreasonable or unfair. For these reasons, I dismiss the landlords' application for an early end to this tenancy.

As the landlords were not unsuccessful in this application, I dismiss the landlords' application to obtain the recovery of his filing fee from the tenants.

### **Conclusion**

I dismiss the landlords' application in its entirety. 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: January 4, 2022

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Residential Tenancy Branch