



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      **FFL, ET**

### Introduction

This 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.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:30 a.m. to enable the tenant to call into this teleconference hearing scheduled for 11:00 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 and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord testified that she served the tenant with the notice of expedited hearing by posting it to the tenant’s door at 4:00 p.m. on January 20, 2022. The landlord submitted a proof of service document, however that document was submitted blank. The landlord testified that the service was witnessed by the building manager for the rental unit and the building manager photographed the notice on the tenant’s door. Based on the landlord’s testimony and photographs provided, I am satisfied the tenant was sufficiently served with the notice of expedited hearing on January 23, 2022, three days after it was posted to his door pursuant to sections 89 and 90 of the Act.

This hearing was conducted in the absence of the tenant pursuant to Rule 7.3 of the Rules of Procedure.

### Issue(s) to be Decided

Is the landlord entitled to an early end to this tenancy and an Order of Possession?  
Is the landlord entitled to recover the filing fee for this application from the tenant?

### Background and Evidence

The landlord testified that on June 14, 2021, she purchased the rental unit with the tenant already living in the rental unit under a tenancy agreement with the original

owner. She asked the tenant to enter into a new tenancy agreement with her, however the tenant wouldn't sign it. Rent, under the previous tenancy agreement was to be paid on the 15<sup>th</sup> of each month.

The tenant only gave the landlord \$1,000.00 of the \$1,300.00 rent for July. The tenant has not paid any rent since.

On November 25, 2021, the landlord served the tenant with a 2 Month Notice to End Tenancy for Landlord's Use by posting it to the tenant's door. The landlord testified that the tenant has not filed a dispute to this notice to end tenancy. The landlord testified that she tried to file an application for dispute resolution to seek an Order of Possession based on this notice, however she didn't do it correctly.

On December 19, 2021, the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause by posting it to the tenant's door. A copy of that notice to end tenancy was provided as evidence in this proceeding. The landlord testified that the tenant has not filed a dispute to this notice to end tenancy.

The landlord testified that on December 19, 2021, the tenant was on the roof, swearing and saying he would jump. According to the landlord, the tenant also attacked the police officers who responded to the incident. The landlord testified that the police took the tenant away for a period of time, however the landlord doesn't know how long because she was on vacation between the days of December 31 to January 16. The manager was to keep her posted.

The landlord testified that the tenant goes into common areas, swearing at other occupants of the building. According to the landlord, the other occupants are scared and he makes them uncomfortable. This also "stresses out" the landlord who has medical conditions exacerbated by the situation with the tenant.

In evidence, the landlord provided a document, "report from strata" signed by the building manager which relates the December 19<sup>th</sup> incident and also states the tenant "tried to pick a fight with the tenants on the third floor". The author of the note was not called as a witness to testify 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.

An application for an early end to tenancy is an exceptional measure taken only when a landlord can show that it would be unreasonable or unfair to the landlord or the other occupants to allow a tenancy to continue until a notice to end tenancy for cause can take effect or be considered by way of an application for dispute resolution.

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. (emphasis added)

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).*

An application for an early end to tenancy is an exceptional measure taken only when a landlord can show that it would be unreasonable or unfair to the landlord or the other occupants to allow a tenancy to continue until a notice to end tenancy for cause can take effect or be considered by way of an application for dispute resolution.

I have reviewed the landlord's testimony and documentary evidence submitted for this hearing and I find that the landlord has provided insufficient evidence to satisfy me the tenant committed a breach of the Act, regulations or tenancy agreement serious enough to justify ending the tenancy early under section 56 of the Act. Ending a tenancy by seeking an early end to tenancy under section 56 of the Act is an extraordinary measure, reserved for the most serious breaches of the Act where there is an **imminent** danger to the health, safety or security of another tenant or the landlord. I find the landlord has provided insufficient evidence to establish that this is the case. While the conduct of the tenant may be disturbing and makes the other occupants of the building uncomfortable, I am not convinced the tenant's tenancy should end without providing him with the entire month for the tenancy to end under section 47. 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.

Therefore, 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 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 under section 56 of the Act is dismissed without leave to reapply.

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: February 04, 2022

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Residential Tenancy Branch