



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

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## **DECISION**

Dispute Codes: ET FFL

### **Introduction**

The landlord seeks to end a tenancy early, pursuant to section 56 of the *Residential Tenancy Act* ("Act"). In addition, they seek recovery of the cost of the filing fee.

A dispute resolution hearing was convened June 13, 2022. Only the landlord's property manager attended. The property manager testified under oath, and provided documentary evidence, proving that the tenants were served with the Notice of Dispute Resolution Proceeding, along with documentary evidence, by Canada Post registered mail. As such, it is my finding that tenants had the required notice and documents necessary for them to participate in the dispute resolution process.

### **Issues**

1. Is the landlord entitled to end the tenancy under section 56?
2. Is the landlord entitled to recover the cost of the filing fee?

### **Background and Evidence**

Relevant evidence, complying with the *Rules of Procedure*, was carefully considered in reaching this decision. Only relevant oral and documentary evidence needed to resolve the issue(s) of this dispute, and to explain the decision, is reproduced below.

The tenancy began on February 1, 2020. Monthly rent is \$812.00. The tenants paid a \$400.00 security deposit and a \$400.00 pet damage deposit. Submitted into evidence is a copy of the written tenancy agreement.

The property manager testified under oath regarding the following incident (which was also described in a written statement) which led to the landlord filing this application for an expedited early termination of the tenancy:

On May 15, 2022, I knocked on the Unit door of [rental unit number] to address his non payment of rent. [The tenants] have been issued a 30 day notice in March to vacate April 31, 2022. The activity of this couple has put the building at risk, and numerous tenants have complained about his domestic abuse towards his partner [name redacted]. I talked to him about it, and he said he would stop. He then filed arbitration to fight the eviction. But then said he was moving out. He did not. **I went to the building on May 15th to see if he had moved out, he was very volatile and threatened to kill me and called me a cunt, he slammed the door so hard that it shook the whole building and tenants came out to see what the problem was.** I proceeded to phone the RCMP and the officer attended within 10 minutes. RCMP File # 2022-1230.

(My emphasis added.)

To date, the tenants appear to continue to occupy the rental unit without paying any rent. As I briefly explained to the property manager, the landlord would need to pursue a separate application to recover any unpaid rent.

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

The landlord's application is made under section 56(1) of the Act, which states that

A landlord may make an application for dispute resolution requesting

- (a) an order ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and
- (b) an order granting the landlord possession of the rental unit.

To grant the orders under this section, section 56(2)(a) and (b) of the Act states that an arbitrator must be satisfied (on a balance of probabilities) that

the tenant or a person permitted on the residential property by the tenant has done any of the following:

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
- (iii) put the landlord's property at significant risk;
- (iv) engaged in illegal activity that
  - (A) has caused or is likely to cause damage to the landlord's property,
  - (B) 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
  - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- (v) caused extraordinary damage to the residential property, and
- (b) it would be unreasonable, or unfair to the landlord 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.

In this case, the undisputed, sworn oral and documentary evidence of the landlord's property manager persuades me to find that the tenant's threat to kill the property manager—who was doing nothing more than inquiring as to whether the non-rent-paying tenants were still in the rental unit—constitutes an illegal activity (i.e., uttering threats, which is an offence under section 264.1(1) of the *Criminal Code*) that adversely affected the security, safety, and physical well-being of the property manager. Uttering a death threat also constitutes what I would find to be a serious jeopardization of the health and safety of the landlord's property manager.

Further, it is my finding that it would be unreasonable and unfair to the landlord to have to wait for a notice to end the tenancy given under section 47.

Taking into consideration all the evidence before me, it is my finding that the landlord has proven, on a balance of probabilities, that they are entitled to an order ending the tenancy effective immediately. They are further entitled to an order of possession with a two-day effective date.

A copy of the order of possession is issued in conjunction with this decision, to the landlord. The landlord must serve a copy of the order of possession on the tenants.

The landlord is entitled to retain \$100.00 of the tenants' security deposit to pay for the application filing fee, pursuant to sections 38(4)(b) and 72 of the Act.

Conclusion

The landlord's application is granted.

**IT IS HEREBY ORDERED THAT:**

- 1. The tenancy is ended effective immediately.**
- 2. The landlord is granted an order of possession of the rental unit.**
- 3. The landlord shall retain \$100.00 of the tenants' security deposit to pay for the application filing fee.**

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: June 13, 2022

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Residential Tenancy Branch