



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET FF

### Introduction

This hearing was convened by way of conference call in response to a Landlord's Application for Dispute Resolution to end the tenancy early and obtain an Order of Possession, and to recover the filing fee from the Tenant.

All parties appeared for the hearing and provided affirmed testimony. The Tenant confirmed receipt of the Landlord's Notice of Dispute Resolution Proceeding and evidence, and did not provide any evidence of his own.

All parties were provided the opportunity to present evidence orally and in written and documentary form, and to make oral submissions to me. 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.

### Issue(s) to be Decided

- Is the Landlord entitled to end the tenancy early and obtain an Order of Possession?

### Background and Evidence

Both parties provided a substantial amount of conflicting testimony during the hearing. However, in this review, I will only address the facts and evidence which underpin my findings and will only summarize and speak to points which are essential in order to determine the issues identified above. Not all documentary evidence and testimony will be summarized and addressed in full, unless it is pertinent to my findings.

The Landlord stated that he bought the rental property on or around April 21, 2022, and he inherited this tenancy at that time. The Tenant stated that he moved into the rental unit around 3 years ago, and he signed a written tenancy agreement with the previous owners. The Tenant stated that the house has sold 4 times in the last few years, and there have been ongoing issues with the split and proportion of utilities to be paid by the different units in the house.

The Landlord explained that the house consists of two rental units, and the Tenant lives in the upper unit. When asked why the tenancy needs to end early, the Landlord stated that he is not receiving rent, and is suffering financial hardship since he took over ownership. The Landlord stated that he issued a 10 Day Notice to End Tenancy for Unpaid Rent in May sometime, and there is an upcoming hearing for that Notice in September 2022. The Landlord stated he cannot wait that long because the Tenant is not paying any rent.

The Landlord also stated that the Tenant is harassing and disturbing the lower Tenant. The Landlord stated that the Tenant disconnected the power to the house, and shut off the power to the lower unit. The Landlord stated that the Tenant in the lower unit was without power for several days, although the Landlord was unclear on how long.

The Tenant stated that he has had various arrangement with previous owners about the utility split between his unit and the lower unit, and it varied depending on how many people were living downstairs, and who was living there. Early in his tenancy, the Tenant stated that he was forced to put the electricity account in his name for the whole house, and then collect amounts from the person renting the suite downstairs. The Tenant stated that this has caused problems and has been a headache for him. The Tenant stated that when the house sold to the current owner in April 2022, he told them that he did not want to have the utilities in his name any longer.

The Tenant stated that he gave the Landlord formal notice on April 21, 2022, that he was going to cancel his electricity account effective June 1, 2022, and that it was up to the Landlord to put the account in his name in order to keep the power going. The Tenant stated that the Landlord failed to take any steps to put the account in his name, and subsequently, the power was shut off on June 1, 2022, for around 10 days. The Tenant stated that rather than put the utility bills in their name, the Landlord convinced the Tenant in the lower unit to put the bill in their name.

The Tenant stated that after the Tenant in the lower unit put the account in his name, there have been no issues with power. The Tenant stated that this whole situation with the power could have been avoided if the Landlord took responsibility for the utilities, after the Tenant informed them of the issue, and that he was going to be taking his name off the account. The Tenant stated that he doesn't even have access to the main breaker for the house, and he hasn't done anything to prevent the lower unit from having power, other than taking his name off the account, and asking the Landlord to reconnect it under his name.

### Analysis

An early end of tenancy is an expedited and unusual remedy under the Act and is only available to the landlord when the circumstances of a tenancy are such that it is unreasonable or unfair to a landlord or other residents to wait for a notice to end tenancy to take effect, such as a notice given under Section 47 of the Act for cause. Therefore, in this case the Landlord bears a strict burden to prove with sufficient evidence that the tenancy should end early Section 56 of the Act.

An application for an early end of tenancy under section 56 of the Act is reserved for situations where a Tenant poses an immediate and severe risk to the rental property, other occupants, or the Landlord. An application for an early end of tenancy is such that a Landlord does not have to follow the due process of ending a tenancy by issuing a notice to end tenancy which gives the Tenant the right to dispute the Notice by applying for dispute resolution.

Under section 56 of the Act, the director may end a tenancy and issue an order of possession only if satisfied, there is sufficient cause; and, 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 to take effect.

I have carefully considered the evidence and testimony of both parties and I make the following findings in this dispute. It is clear based on the testimony from both parties that the relationship between the Tenant and the Landlord has degraded over the past couple of months. Although the Landlord stated that the non-payment of rent is his primary concern at this point, I note the parties already have a hearing for that matter, and the non-payment of rent is not an issue before me today.

On the Landlord's application for this hearing, he put that the Tenant "cut off the electricity for the basement suite Tenant". I note I do not have a copy of the tenancy

agreement in evidence, such that I could explicitly know or understand what the arrangement was with the utilities. However, it appears the Tenant has had ongoing issues with the utilities, the amounts, and was not happy about having the bills in his name, for both rental units. I note the Tenant stated he provided notice to the Landlord and new owner of the property on or around April 21, 2022, that he was going to cancel his electricity billing account, and he asked the Landlord to put the bill in his name, as of June 1, 2022. The Tenant appears to have given at least a month notice for this. The Landlord did not refute being given this notice from the Tenant. It does not appear the Landlord took any steps to put the bills in his name, and the power was shut off on June 1, 2022, as per the Tenant's notice.

I note the following portion of the Policy Guideline #1:

***SHARED UTILITY SERVICE***

*1. A term in a tenancy agreement which requires a tenant to put the electricity, gas or other utility billing in his or her name for premises that the tenant does not occupy, is likely to be found unconscionable as defined in the Regulations.*

I find the Tenant's request to put take his name off the utility account is reasonable, given the account serviced more than one rental unit. I find the Landlord could and should have taken further steps to prevent the disruption in power by putting the account in his name, given the advance notice from the Tenant, and given this is a multi-unit building. I note the power was disconnected in early June for several days, perhaps even weeks (the amount of time was not clear). However, I am not satisfied that the protracted period the power was off was the Tenant's fault. Overall, I am not satisfied that any of the Tenant's behaviours or actions are severe enough such that it is unreasonable or unfair to a landlord or other residents to wait for a notice to end tenancy to take effect.

I find the Landlord has provided insufficient evidence to substantiate that there is cause to end the tenancy in an expedited manner. As a result, I am unable to end this tenancy early, without further evidence from the Landlords.

Given the Landlords were not successful in this hearing, I decline to award them the recovery of the cost of the filing fee she paid to make this application.

Conclusion

The Landlords have not met the burden to prove the tenancy should end early. Therefore, the Landlords' Application is dismissed without leave to re-apply and the tenancy will continue until such time it is 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: July 11, 2022

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Residential Tenancy Branch