



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET, FFL

### Introduction

This hearing was scheduled to deal with a landlord's application for an order to end the tenancy early and obtain an Order of Possession under section 56 of the Act.

An agent appeared for the landlord at the outset of the hearing. The agent indicated she had completed the Application for Dispute Resolution and the owner was aware of this proceeding. I noted that there was no documentation before me to show the agent was authorized to act on behalf of the landlord. I instructed the agent to have the landlord attend the hearing, which she did. When the landlord connected to the teleconference call, the landlord acknowledged that the agent was acting on his behalf with respect to this eviction proceeding. I was satisfied the agent had the landlord's authorization and I proceeded to hear from the landlord's agent. The landlord left the teleconference call.

The tenant did not attend the hearing and I explored service of hearing materials and evidence upon him.

The landlord's agent testified that she compiled the hearing package, which included paper documents, printed images, and videos. The videos were on a USB stick. The landlord's agent stated the complete package was given to the tenant in person on November 7, 2022, at the rental unit, by another person who works in her office. I noted that the Proof of Service indicates the hearing materials were attached to the door or other conspicuous place along with details that the tenant "picked it up right away". The landlord's agent stated the person who did the serving was away sick but that the neighbour witnessed service. The neighbour, referred to as "AJ" in this decision, was called to testify.

AJ testified that she saw a package delivered to the tenant, in person, on November 7, 2022 and this was also captured on her home security camera.

The landlord's agent stated she had video and still images of the service that took place on November 7, 2022 that she could upload to further corroborate service. I authorized the landlord's agent to do so. In the images uploaded by the landlord's agent, I see what appears to be the man in a high visibility vest handing a large envelope to the tenant as he stands on his door step and a woman standing at the corner of the house watching, followed by another image of the tenant holding the envelope. Based on the witness testimony and the still images uploaded as proof of service, I am satisfied the tenant was duly served with notification of this proceeding and I continue to make a decision in this matter.

As for the digital evidence contained on the USB stick, the landlord's agent acknowledged she did not confirm with the tenant that he was able to see or hear its content, as required under the Rules of Procedure for digital evidence. Nor, was the tenant in attendance at the hearing to confirm he could see/hear the video evidence. As such, I informed the landlord's agent that I would not admit the video evidence.

#### Issue(s) to be Decided

1. Has the landlord established that the tenancy should end early and be provided an Order of Possession under section 56 of the Act?
2. Award of the filing fee.

#### Background and Evidence

The tenancy started on July 1, 2022. The landlord collected a security deposit of \$425.00 and the tenant is required to pay rent of \$850.00 on the first day of every month.

The rental unit is described as being a small house on the same property as the main house. The main house is tenanted by "AJ" who lives in the main house with her minor daughter.

The landlord's agent stated the tenant had been served with a One Month Notice to End Tenancy for Cause and a 10 Day Notice to End Tenancy for Unpaid Rent in August 2022. Although the tenant did not dispute either of these notices to end tenancy, the landlord has applied for dispute resolution but the hearing was scheduled for January

2022. The landlord's agent indicated that this expedited hearing application was made because AJ fears for her safety and that of her daughter.

The landlord's agent submitted that the tenant has acted very aggressively toward AJ while on the property and on the street. The police have been called on multiple occasions and the tenant has been arrested. Also, the tenant is suspected of using and selling drugs, attracting drug users to the property, and the tenant has filled the rental unit with garbage and stolen property. AJ applied for a no contact order but the first application could not be processed due to the lack of the tenant's full name. AJ followed up with another application and on October 12, 2022 AJ succeeded in obtaining a no contact order against the tenant; however, the tenant has violated the no contact order.

AJ was called to testify. AJ testified that she is terrified of what the tenant has done or may do to her and/or her daughter. I instructed AJ to provide me with the most significant interactions with the tenant.

AJ testified that on or about August 19, 2022 while AJ was sitting on her deck, the tenant began screaming at her, including threats to tell her daughter's father where they live so that her daughter's father can come get the daughter. AJ explained her daughter's father is not permitted to have contact with her daughter and he does not know where they live. AJ called the police and the tenant was taken away by the police when the tenant was uncooperative with the police.

AJ testified that on or about August 29, 2022, as she was on her way to get a peace bond against the tenant, AJ was getting into her car with her daughter when the tenant came at her in a scooter and tried hitting her with the scooter. AJ tried to drive away slowly but the tenant followed her down the street, yelling obscenities toward her and her daughter. The tenant also tried swerving the scooter in front of AJ's car as she was trying to get away.

AJ testified that she does not use the yard that forms part of her rental property for fear of the tenant.

AJ also stated that a couple of weeks ago the tenant went to court but the charges against him were "stayed". AJ does not know the reason and believes the peace bond is therefore no longer in effect. AJ stated this terrifies her.

I also heard that the tenant was found to have drugs, drug trafficking paraphernalia, garbage and stolen property in the rental unit when the landlord inspected the unit. Drug users also frequent the rental unit and the tenant was seen walking on AJ's part of the property with a knife in his hand.

Aside from several videos, the landlord provided a copy of the no contact order against the tenant, dated October 12, 2022; a written timeline of events; and, photographs of the inside and outside of the rental unit showing what appears to be drug paraphernalia on the coffee table, the unit to be in disarray and full of garbage and possessions, and the unit to be full of garbage.

### Analysis

Under section 56 of the Act, the Director, as delegated to an Arbitrator, may order the tenancy ended earlier than if the landlord had issued a One Month Notice to End Tenancy for Cause ("1 Month Notice") and grant the landlord an Order of Possession. The landlord must demonstrate cause for ending the tenancy and that it would be unreasonable to wait for a 1 Month Notice to take effect.

Below I have reproduced section 56 of the Act:

- 56** (1) A landlord may make an application for dispute resolution to request an order
- (a) 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) granting the landlord an order of possession in respect of the rental unit.
- (2) The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,
- (a) 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.

[My emphasis underlined]

Section 47 of the Act provides a mechanism for landlords to bring a tenancy to an end where the tenant has given the landlord cause to end the tenancy. A notice given under section 47 affords the tenant ten days to dispute the 1 Month Notice or at least one full move to vacate the rental unit. Section 56 also requires that the tenant has given the landlord cause to end the tenancy; however, the seriousness of the alleged offence(s) or conduct permits the landlord to have the tenancy ended without the time afforded to the tenant under section 47. Accordingly, section 56 is intended to apply in the most urgent and severe circumstances and are processed as an "expedited hearing".

In the matter before me, I accept the unopposed evidence of the landlord's agent and the witness AJ. Accordingly, I find the tenant has unreasonably disturbed another occupant of the property by yelling and swearing at her, following her, walking around the property with a knife, attracting drug users to the property, and threatening to inform her daughter's father where she lives. I am also satisfied that the tenant has also

seriously jeopardized the health and safety of another occupant when he tried to hit AJ's car and swerved a scooter in front of her vehicle's path. Also of consideration is the tenant's violation of the no contact order and filling the rental unit and yard with garbage. Given the seriousness of these actions, and significant potential of harm to other occupants and the property, I accept that it would be unreasonable for the landlord to wait for a 1 Month Notice to take effect or be enforced. Therefore, I grant the landlord's request under section 56 of the Act and I provide the landlord with an Order of Possession effective two (2) days after service.

The landlord was successful in this Application for Dispute Resolution and I award the landlord recovery of the \$100.00 filing fee from the tenant. The landlord is authorized to deduct \$100.00 from the tenant's security deposit to recover this award.

### Conclusion

The landlord's application for an order to end the tenancy and obtain an Order of Possession under section 56 of the Act is granted.

I provide the landlord with an Order of Possession effective two (2) days after service.

I authorize the landlord to deduct \$100.00 from the tenant's security deposit to recover the \$100.00 filing fee from the tenant.

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: November 22, 2022

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Residential Tenancy Branch