



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ET

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlords October 25, 2022 (the “Application”). The Landlords applied for an order ending the tenancy early pursuant to section 56 of the *Residential Tenancy Act* (the “Act”).

The Landlords and Tenant H.S. appeared at the hearing. H.S. appeared for Tenant S.C. I explained the hearing process to the parties. I told the parties they are not allowed to record the hearing pursuant to the Rules of Procedure (the “Rules”). The parties provided affirmed testimony.

Both parties submitted evidence prior to the hearing. I addressed service of the hearing package and evidence.

Tenant H.S. confirmed receipt of the hearing package and Landlord’s evidence and confirmed there are no issues with the timing of service. Landlord G.M. confirmed receipt of the Tenant’s evidence two days prior to the hearing. G.M. agreed to admissibility of the evidence and therefore I did not go into this issue further.

The parties were given an opportunity to present relevant evidence and make relevant submissions. I have considered all evidence provided. I will only refer to the evidence I find relevant in this decision.

### Issue to be Decided

1. Are the Landlords entitled to an order ending the tenancy early pursuant to section 56 of the *Act*?

### Background and Evidence

The parties agreed on the following. There is a verbal tenancy agreement between the parties. The tenancy started in July 2021 and is a month-to-month tenancy. Rent is \$800.00 per month due on the first day of each month. No deposits were paid.

The Landlords relied on the following incidents for the Application.

August 02, 2022, the Tenants “pressed false charges” against Landlord G.M. stating that G.M. uttered death threats and assaulted Tenant S.C. The Tenants lied to police about this incident. The charges have since been dropped. S.C. was yelling and screaming at G.M. during the incident.

October 01, 2022, the Tenants’ visitor was on the road and threatened to drag Landlord G.M. out of their vehicle and “give G.M. a good thumping”. This incident was witnessed by the neighbour who provided a statement. The Landlords do not believe that the visitor was a contractor as claimed by Tenant H.S. because the person was riding on an ATV shirtless.

October 18, 2022, people were in the pump house after Tenant H.S. was told by the police not to be. H.S. tried to push Landlord G.M. off G.M.’s feet. H.S. was swearing at G.M., calling G.M. names and tried to hit G.M. with a stick. H.S. then said they were going in their house to get a gun and threatened to shoot G.M. H.S. said, “I’ve had it, I’m getting a gun”. G.M. later stated that H.S. pushed G.M. off their feet with a two-handed push. G.M. called the police and H.S. and their visitor lied to police about the incident.

October 29, 2022, Tenant S.C. was outside shining a flashlight in the Landlords’ bedroom. The Tenants were having an illegal bonfire. S.C. was yelling “come on over here now” and taunting the Landlords. Police attended. S.C. was intoxicated, had a stick in their hand and was causing a big scene.

The Landlords further testified as follows. The Tenants have been lying to the police and RTB. The Tenants and their visitors are always staring at the Landlords, jeering at the Landlords and being threatening towards the Landlords. The Landlords do not feel safe due to the Tenants. The Tenants are always yelling at each other and fighting.

Tenant H.S. testified as follows in reply.

In relation to the August 02, 2022 incident, there was an incident between the parties where Landlord G.M. came charging over to the Tenants' property, Tenant S.C. intervened and it did get violent. The Tenants called the police who did attend. It was the police who "pressed charges", it was not the Tenants. The Tenants did not provide false information to police.

In relation to the October 01, 2022 incident, the incident described by the Landlords did happen; however, it happened on the road and between a contractor and Landlord G.M. The contractor was at the Tenants' property fixing a leak in their roof and was trying to get the animals off the road. The contractor was on the property to do work, and was not a friend of the Tenants. The Tenants were not with the contractor when the incident occurred. The contractor did not know who the person in the vehicle was. The contractor provided a letter in evidence.

In relation to the October 18, 2022 incident, a friend was over and went to close the pump house door. Landlord G.M. came home at the same time. G.M. came flying out of their vehicle, running, swearing and screaming at the Tenants' friend. The Tenants' friend told G.M. they were just closing the pump house door; however, G.M. called the police. G.M. accused Tenant H.S. of threatening G.M. which did not happen. Police attended and were unconcerned about a weapon and did not lay charges. H.S. did not do what the Landlords are alleging. The Landlords have not submitted evidence to support their claims.

In relation to the October 29, 2022 incident, Tenant S.C. was not yelling at the Landlords or taunting them. The police did attend the property with the fire department. There were no laws broken, no threats made and no charges laid. Tenant H.S. is scared of Landlord G.M.

Tenant H.S. denied that the Tenants or their guests are staring at, yelling at or jeering at the Landlords in general. H.S. denied that they have ever threatened the Landlords.

I have reviewed the documentary evidence submitted and will refer to it below as necessary.

### Analysis

Section 56 of the *Act* allows an arbitrator to end a tenancy early when two conditions are met. First, the tenant, or a person allowed on the property by the tenant, must have done one of the following:

1. Significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
2. Seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
3. Put the landlord's property at significant risk;
4. Engaged in illegal activity that has (a) caused or is likely to cause damage to the landlord's property (b) 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) jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord; or
5. Caused extraordinary damage to the residential property.

Second, it must be unreasonable or unfair to require the landlord to wait for a One Month Notice to End Tenancy for Cause issued pursuant to section 47 of the *Act* to take effect.

Pursuant to rule 6.6 of the Rules, the Landlords, as applicants, have the onus to prove the circumstances meet the above two-part test. The standard of proof is on a balance of probabilities meaning it is more likely than not the facts occurred as claimed.

When one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails.

I find the parties disagree about what has occurred between them, other than in relation to the October 01, 2022 incident. I find both versions of what has occurred between the parties equally probable. I did not find one party more reliable or credible than the other

during the hearing. Given this, I have focused on the documentary evidence before me to support each position.

The only relevant documentary evidence before me is an email from a neighbour submitted by the Landlords and a letter from the contractor submitted by the Tenants. I find both of these only address the October 01, 2022 incident.

I do not find the neighbour's email to be compelling evidence supporting the Landlords' position, other than in relation to the October 01, 2022 incident, for two reasons. First, the email contains general statements about the Tenants or outlines incidents not relied on by the Landlords in the Application. I do not find that the email addresses any of the specific incidents outlined by the Landlords, other than the October 01, 2022 incident. Second, the author has not used names throughout much of the email and I cannot tell who the author is talking about throughout much of the email. In the circumstances, I do not find the email to be compelling evidence to support the Landlords' version of events, other than in relation to the October 01, 2022 incident.

I find the Landlords have failed to prove the incidents outlined occurred as claimed given the lack of supporting evidence before me, other than in relation to the October 01, 2022 incident.

I accept that the October 01, 2022 incident occurred as claimed by the Landlords because the evidence supports this and Tenant H.S. did not dispute this. However, I accept that the person who had an issue with Landlord G.M. was a contractor hired to work on the Tenants' property as I did not have concerns about H.S.'s testimony about this and the Landlords do not know this person or why the person was on the property. I do not find the Landlords' assumptions about what a contractor would ride/drive or whether a contractor would go shirtless to be compelling points.

I do not find the October 01, 2022 incident sufficient to end this tenancy pursuant to section 56 of the *Act* because the incident occurred on a road and not on the Landlords' or Tenants' property, it occurred between Landlord G.M. and someone who was simply hired to work on the Tenants' property and the Tenants were not present when the incident occurred. I do not find that this incident meets the two-part test set out in section 56 of the *Act*.

Given the above, I am not satisfied the Landlords have proven that the tenancy should end pursuant to section 56 of the *Act* and I dismiss the Application without leave to

re-apply. This tenancy will continue until otherwise ended in accordance with the *Act*.

Conclusion

I dismiss the Application without leave to re-apply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: November 29, 2022

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Residential Tenancy Branch