



# 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 November 18, 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 appeared at the hearing with T.L. who spoke for the Landlords. The Landlords called three witnesses during the hearing, J.B., G.E. and S.B. The Tenant appeared at the hearing with T.P., their partner. 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 and witnesses provided affirmed testimony.

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

The Tenant confirmed receipt of the hearing package and Landlords’ evidence November 22, 2022. T.L. confirmed receipt of the Tenant’s evidence and confirmed there are no issues with service of the evidence.

The Tenant sought an adjournment based on when they received the hearing package and Landlords’ evidence. The Tenant also stated they wanted representation at the hearing. The Tenant testified that they had not had time to prepare for the hearing and would have obtained further documents if they had more time. The Tenant testified that they wanted to call witnesses during the hearing; however, the witnesses were working on the date of the hearing.

I considered rule 7.9 of the Rules and the criteria for granting an adjournment. I did not grant an adjournment. The Landlords complied with the Rules in relation to the timing of service and the RTB allows for expedited hearings with a quick hearing date. I did not accept that the Tenant did not have sufficient time to prepare for the hearing based solely on when they received the hearing package and Landlords' evidence. Further, the Tenant did not point to further evidence to show they made efforts to have witnesses appear at the hearing, obtain further documents or obtain representation and I was not satisfied the Tenant had done what they could to prepare for the hearing but needed more time due to something out of their control.

I told the parties I would not adjourn the hearing but would re-consider an adjournment after I had heard the parties and knew what the issues were between the parties. At the end of the hearing, I did re-consider whether an adjournment was necessary to allow the Tenant to further address the Application and I found it was not necessary.

The parties were given an opportunity to present relevant evidence, make relevant submissions and ask relevant questions. 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

There was no issue that there is a tenancy agreement between the parties.

The Landlords relied on seven incidents outlined in their written materials as the basis for the Application. I heard the Landlords, T.L. and the witnesses on the seven incidents. The following is a summary of the evidence provided.

February 03, 2022, T.P., the Tenant's partner, drove down the driveway on the property at excessive speed, forcing one of the witnesses to pull their vehicle over. The next day, T.P. was again driving at high speed down the driveway and almost hit the Landlords' dog who was in the road. The Tenant and T.P. were contacted about this. Similar incidents have not occurred since.

April 22, 2022, the Tenant was yelling and screaming in the rental unit at night. There have been other incidents of the Tenant yelling and screaming in the rental unit. The Tenant was contacted about this. The Tenant has not screamed at, threatened or acted violently towards J.B., the witness called about this incident.

June 13, 2022, the Tenant disturbed a caretaker on the property by banging on their door and making them get up to let the Tenant into the rental unit.

July 28, 2022, someone stabbed a horse in the barn on the property. Police have investigated. The Tenant and T.P. were persons of interest to police; however, the Landlords do not know exactly why. Police have determined that there is not sufficient evidence to charge the Tenant or T.P. The Landlords believe the Tenant, T.P. or T.P.'s son stabbed the horse because the Tenant often yells and waves their arms at the horse because it makes too much noise, T.P. and T.P.'s son were on the property the night of the incident and the Tenant, T.P. and T.P.'s son have been seen standing in front of the horse's stall. Further, the horse was seen acting aggressively towards T.P. after the incident which is unusual for the horse.

August 03, 2022, one of the witnesses was coming out of the arena and saw the Tenant 30 feet away. The Tenant yelled at the witness about the Tenant's bike, the witness told the Tenant they had nothing to do with a bike issue and to stop, the witness turned around and went back to the arena. The witness has had many confrontations with the Tenant. The witness is scared of the Tenant due to the Tenant's outbreaks of anger, swearing and screaming.

August 11, 27 and September 04, 2022, the Tenant and T.P. were doing laundry on the property which they are not permitted to do.

September 18, 2022, one of the witnesses heard yelling and screaming from the rental unit at 1:40 a.m. and 2:30 a.m. The witness does not feel safe or comfortable around the Tenant or their guests because the witness does not know what they are capable of. There have been no incidents of threats, violence or aggression by the Tenant or their guests towards the witness.

The Tenant and T.P. denied that the incidents claimed occurred. The Tenant acknowledged they have had arguments with T.P. in the rental unit; however, said this issue has been addressed since the Landlords told the Tenant this could not continue.

I have reviewed the evidence submitted by the parties. In particular, I have listened to the audio recording of the Tenant or their guest yelling in the rental unit. I do not find that any of the documentary evidence adds to the above such that it needs to be detailed here.

### 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.

The parties disagreed about whether the incidents alleged occurred. I do not find it necessary to decide whether the incidents alleged occurred. Even accepting the

incidents occurred as alleged by the Landlords, T.L. and the witnesses, these incidents are not serious enough to warrant ending this tenancy pursuant to section 56 of the *Act*. Section 56 of the *Act* is reserved for the most serious of circumstances. Meeting section 56 of the *Act* is a very high bar. Section 56 of the *Act* should be used when a tenant poses serious health or safety risks to landlords or others on the property. It is issues such as those involving threats or violence that meet the two-part test in section 56 of the *Act*.

Here, the only incident that would meet the two-part test in section 56 of the *Act* is the incident with the horse. However, there is not sufficient evidence before me, nor was there sufficient evidence before the police, to determine that it was the Tenant or someone connected to the Tenant who stabbed the horse. I am not satisfied based on the evidence provided that it was the Tenant or someone connected to the Tenant who stabbed the horse. Given this, I decline to end this tenancy based on this incident.

None of the remaining incidents alleged are serious enough to warrant ending a tenancy pursuant to section 56 of the *Act*. The Landlords can seek to end this tenancy pursuant to a One Month Notice to End Tenancy for Cause issued pursuant to section 47 of the *Act* in relation to these incidents. There is no unreasonableness or unfairness in requiring the Landlords to do so.

The Application is dismissed without leave to re-apply.

### Conclusion

The Application is dismissed 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: December 02, 2022

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Residential Tenancy Branch