



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Introduction**

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order of possession for an early end to the tenancy pursuant to section 56;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenants did not attend this hearing, although I waited until 9:45 a.m. in order to enable the tenants to connect with this teleconference hearing scheduled for 9:00 a.m. The landlord's agent attended the hearing and was given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

The landlord testified that on February 7, 2023, he personally served copies of the Application for Dispute Resolution and Notice of Hearing to the tenant S.K.

Based on the above evidence, I am satisfied that the tenants was served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to section 89 of the Act. The hearing proceeded in the absence of the tenants.

### **Issues**

Is the landlord entitled to an order of possession for an early end to the tenancy?  
Is the landlord entitled to recover its filing fee?

### **Background & Evidence**

The tenancy began sometime in mid-October 2022 after the tenant on the original lease moved these occupants in and then moved out herself. The landlord testified that he started to work with the tenant S.K. and kept the tenants on, on a month-to-month basis. The monthly rent stayed the same at \$2100.00 payable on the 1<sup>st</sup> day of each month.

The landlord testified the tenants the tenants haven't paid rent and have not moved out after being served with a 10 Day Notice to End Tenancy for Unpaid Rent. The landlord testified the tenants have only paid a portion of the rent for the last few months.

The landlord submits there is also concern about what the tenants are "potentially doing to the property" and that there is "apparently" a gun in the house. The landlord submits that other tenants of the carriage house on the property have also been having issues with the tenants in the main house.

### Analysis

In accordance with section 56 of the Act, in receipt of a landlord's application to end a tenancy early and obtain an order of possession, an arbitrator may grant the application where the tenant or a person permitted on the property by the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- seriously jeopardized the health and safety or a lawful right or interest of the landlord or another occupant;
- put the landlord's property in significant risk;
- engaged in illegal activity that:
  - has caused or is likely to cause damage to the landlord's property;
  - 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
  - has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- caused extraordinary damage to the residential property.

In addition to showing at least one of the above-noted causes, the landlord must also show why it would be unreasonable or unfair to the landlord to wait for a One Month Notice for cause to take effect.

An application for an early end to tenancy is an exceptional measure taken only when a landlord can show that it would be unreasonable or unfair to the landlord or the other occupants to allow a tenancy to continue until a notice to end tenancy for cause can take effect.

There is nothing in the landlord's evidence to suggest the tenants pose an immediate serious threat to the health and safety of the landlord or other occupants or to the landlord's property. The landlord provided insufficient evidence to back up any of the concerns raised in this hearing. Rather unpaid rent appears to be the landlord's primary concern. The landlord is at liberty to file an application for an order of possession based upon unpaid rent.

Accordingly, I dismiss the landlord's application for an early end to the tenancy.

As the landlord was not successful in this application, I find that the landlord is not entitled to recover the \$100.00 filing fee paid for this application.

### Conclusion

The landlord's application is dismissed.

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: February 21, 2023

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Residential Tenancy Branch