



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

**Dispute Codes**      **ET, FFL**

### **Introduction**

This hearing dealt with an application filed by the landlord pursuant the *Residential Tenancy Act* (the “Act”) for:

- An order to end the tenancy early due to circumstances where it would be unreasonable, or unfair to the landlord or other occupants to wait for a Notice to End Tenancy for Cause to take effect pursuant to section 56; and
- Authorization to recover the filing fee from the other party pursuant to section 72.

The landlord attended the hearing at the appointed time of 9:30 a.m. The tenant called into the hearing at 9:37 a.m. after calling in to a different hearing and being redirected to this one.

The parties were informed at the start of the hearing that recording of the dispute resolution is prohibited under the Rule 6.11 of the Residential Tenancy Branch Rules of Procedure (“Rules”) and that if any recording was made without my authorization, the offending party would be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation and potential fine under the Act.

Each party was administered an oath to tell the truth and they both confirmed that they were not recording the hearing.

The tenant acknowledged being served with the landlord’s notice of expedited hearing. The tenants did not upload any documentary evidence for this hearing but indicated they did upload evidence for a different file to be heard at a later date.

### **Preliminary Issue**

The parties agree that the landlord had served the tenant with a 1 Month Notice to End Tenancy for Cause and that a hearing has been set to dispute that notice on June 9, 2023 at 9:30 a.m. The landlord also sought an Order of Possession based on that

notice, set for the same date. The file numbers are recorded on the cover page of this decision.

Issue(s) to be Decided

Should the tenancy be ended early?

Background and Evidence

At the commencement of the hearing, pursuant to rules 3.6 and 7.4, I advised the parties that in my decision, I would refer to specific documents presented to me during testimony. In accordance with rule 7.14, I exercised my authority to determine the relevance, necessity and appropriateness of each party's evidence.

While I have turned my mind to all the documentary evidence, including photographs, diagrams, miscellaneous letters and e-mails, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of each of the parties' respective positions have been recorded and will be addressed in this decision.

The landlord gave the following testimony. The rental unit is one of two lower bachelor units located in a single family house with the 2 bachelor units and an upper unit. The tenancy began on December 1, 2009 and rent is currently set at \$776.25 per month.

The occupant of the other bachelor unit (MM) began to complain about the tenant's boyfriend who had been staying with the tenant since approximately September, 2022. According to MM's texts, the tenant and her boyfriend frequently fight. The fights are loud and occur nightly with screaming; things being thrown at each other; and doors slammed. MM also complains that the tenant's boyfriend keeps his dog in the tenant's unit or lets the dog run loose, jumping all over MM and barking "incessantly". MM has an allergic reaction to dogs.

The landlord testified that he has tried to get the tenant to have her boyfriend leave and the tenant reassured him that he would be gone by the end of November. MM texted the landlord on December 4<sup>th</sup> to advise that the tenant's boyfriend has come back and on January 18<sup>th</sup>, MM advised the landlord that the tenant's boyfriend was once again *"staying a few nights in the past few weeks and twice now (she) has been awoken by yelling"*

The landlord testified that MM went to the police and that the tenant's boyfriend was taken away on a peace bond and has not returned. The dog has been off the property since November 2022.

The tenant's advocate gave the following testimony. The tenant was involved in a domestically violent relationship with her boyfriend and was unable to end the relationship with him without assistance. The complaints made to the police by MM has helped the tenant in finally getting her boyfriend to leave and he hasn't been back since February 23, 2023. The tenant is grateful that her neighbour MM brought charges against her boyfriend.

On February 24, 2023, the tenant's boyfriend was arrested for uttering threats, mischief and criminal harassment and her neighbour, MM was the victim. Offence dates span from October 19, 2022 to February 23, 2023. According to the tenant's advocate, the tenant is currently on bail and has conditions to not go to the address where the tenant and MM live and to have no contact directly or indirectly with MM. The tenant has not seen her boyfriend since he was released on bail and he has not come back to the residence since. She confirms the dog was rehoused in November 2022.

### Analysis

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an Order of Possession on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 for a landlord's notice for cause.

In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that the tenant has done any of the following:

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

- engaged in illegal activity that 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, **and**

**it would be unreasonable, or unfair to the landlord, the tenant 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.**

Residential Tenancy Branch Policy Guideline PG-51 [Expedited Hearings] provides further clarification at part B:

... there are circumstances where the director has determined it would be unfair for the applicant to wait 22 days for a hearing. These are circumstances where there is an **imminent danger to the health, safety, or security of a landlord or tenant**, or a tenant has been denied access to their rental unit. (bold emphasis added)

...

Applications to end a tenancy early are for **very serious breaches only** and require sufficient supporting evidence. An example of a serious breach is a tenant or their guest pepper spraying a landlord or caretaker. The landlord must provide sufficient evidence to prove the tenant or their guest committed the serious breach, and the director must also be satisfied that it would be unreasonable or unfair to the landlord or other occupants of the property or park to wait for a Notice to End Tenancy for cause to take effect (at least one month).

With the criminal charges laid against the tenant's boyfriend for criminal harassment and uttering threats against MM, I find that the tenant's guest engaged in illegal activity that has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of MM, another occupant of the residential property. I am also satisfied that the tenant and her boyfriend's fighting and yelling at one another "incessantly" was a significant interference to MM's right to the quiet enjoyment of her rental unit.

Despite this, I am not satisfied that it would be unreasonable, or unfair to the landlord, the tenant 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. The dog has been removed and the tenant testified that her boyfriend, the aggressor in a domestic violence criminal charge, has not reattended the residence since February 24<sup>th</sup> when he

was put on bail conditions to not go there. His bail conditions also contain a no-contact order to protect MM. None of this testimony was disputed by the landlord.

It appears to me that the source of the unreasonable disturbance has been successfully removed and that there no longer exists an **imminent** danger to the health, safety or security of either the tenant or MM. Based on these findings, I find that it would be fair for the landlord and the other occupants of the residential property to wait for the hearing on June 9<sup>th</sup> to determine if the grounds for issuing the one month notice to end tenancy for cause was valid. Consequently, I dismiss the landlord's application seeking an early end to the tenancy.

#### Conclusion

I dismiss the landlord's application. This tenancy will continue until 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: March 14, 2023

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Residential Tenancy Branch