



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Introduction**

This hearing was convened in response to an application by the Landlord for an order ending the tenancy early and an order of possession pursuant to section 56 of the *Residential Tenancy Act* (the “Act”).

The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions. The Tenant confirmed receipt of the Landlord’s evidence and confirms that no documentary evidence has been provided by the Tenant.

### **Issue(s) to be Decided**

Is the Landlord entitled to an early end to the tenancy and an order of possession?

### **Background and Evidence**

The following are agreed facts: the tenancy started on November 25, 2014. Rent of \$375.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$178.00 as a security deposit.

The Landlord states that on March 11, 2023 the Tenant, along with another tenant (“Tenant B”), assaulted a third tenant (“Tenant C”). The Landlord provides video of an incident from a hallway outside the elevator and from the inside the elevator. The Landlord states that none of the persons seen on the video would provide any witness evidence for the Landlord. The Landlord states that the police attended, and no persons would provide any witness statements to the police. The police did not charge the Tenant for the incident as the police had insufficient evidence without the witness evidence. The Landlord states that Tenant C also declined to provide evidence to the

police or the Landlord. Tenant C has moved out of the unit but left belongings and continues to pay rent for their unit in the building. The Landlord is unable to point to any place in the videos that shows the Tenant putting their hands on Tenant C. The Landlord confirms that they only have video of the Tenant touching the wheelchair that Tenant C was using. The Landlord is also seeking the end of the tenancy of Tenant B for this incident and this hearing is scheduled for a future date.

The Tenant states that they did not assault Tenant C and that they had been trying to assist Tenant C by removing the wheelchair that was on top of Tenant C. The Tenant states that Tenant C was pushing the wheelchair that was carrying stolen items and that the wheelchair had been stolen from the Tenant B. The Witness states that they were inside the elevator when the Tenant pulled the wheelchair off Tenant C who was inside the elevator. The Witness states that they never saw the Tenant hit or otherwise interact with Tenant C who had, according to the Witness, stolen the wheel chair from Tenant B who was with the Tenant at the time of the incident.

### Analysis

Section 56(2) of the Act provides that 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.

As the video does not support that the Tenant assaulted Tenant C and as there is no other supporting evidence of any interference by the Tenant during the incident other than to assist Tenant C I find on a balance of probabilities that the Landlord has not substantiated that the Tenant has done anything to warrant an end to the tenancy. I therefore dismiss the Landlord's application and the tenancy continues.

### Conclusion

The application is dismissed, and the tenancy continues.

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: April 26, 2023

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Residential Tenancy Branch