



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      ET, FFL

### Introduction

This hearing was scheduled for 9:30 a.m. on this date, via teleconference call, to deal with a landlord's application for an order to end the tenancy early and obtain an Order of Possession under section 56 of the Act.

The named landlord and landlord's father, who also co-owns the property with the landlord, appeared at the hearing. The parties were affirmed.

There was no appearance on part of the tenant despite leaving the teleconference call open for approximately 40 minutes.

Since the tenant did not appear, I explored service of hearing materials upon the tenant. The co-owner testified that he personally attached the proceeding package and other materials to the tenant's door on May 13, 2023 and took a picture of the envelope attached to the door. I was not provided the picture but I found the co-owner's testimony to be credible and I accepted that the tenant was duly served with notification of this proceeding. Accordingly, I continued to hear from the landlord without the tenant present.

### Issue(s) to be Decided

Has the landlord established that the tenancy should end early and be provided an Order of Possession under section 56 of the Act?

### Background and Evidence

The month to month tenancy started on January 30, 2023. The tenant is required to pay rent of \$800.00 on the first day of every month. The rental unit is a basement suite. The landlord and his girlfriend reside in the upper level of the house.

On April 4, 2023 the landlord and his girlfriend awoke to the strong smell of chlorine and felt ill as a result. The landlord and his girlfriend left their living unit and still felt unwell. The landlord tried contacting the tenant and when there was no response, the tenant asked his father/co-owner to check on the well-being of the tenant.

The landlord's father testified that he entered the rental unit without knocking and noticed the strong smell of bleach. It was apparent the tenant was bleaching clothes without ventilating the basement suite. The landlord's father proceeded to open the door of the bedroom to check on the wellbeing of the tenant and the tenant responded, "You can't come in here" The landlord's father closed the bedroom door and invited the tenant outside to have a conversation. The landlord's father told the tenant that the landlord was not happy about the situation. The tenant then sent a text message to the landlord to explain he was bleaching his clothes and used 2 to 3 cups of bleach and that there was still vinegar in the basin he used.

On April 6, 2023 the landlord issued a One Month Notice to End Tenancy for Cause with a stated effective date of May 31, 2023. The tenant filed to dispute the One Month Notice and requested authorization to change the locks to the rental unit. A hearing is set to hear the tenant's application on July 21, 2023 (file number referenced on the cover page of this decision).

On April 14, 2023 the landlord was disturbed by the tenant playing very loud music. Also, on April 14, 2023 there are problems with the internet service and the tenant sent a message to the landlord accusing the landlord of turning the internet service off to him.

On April 29, 2023 the landlord served the tenant with a Two Month Notice to End tenancy for Landlord's Use of Property ("Two Month Notice") with an effective date of June 30, 2023. The tenant did not file to dispute the Two Month Notice and has withheld rent for June 2023 as compensation for receiving a Two Month Notice.

On April 29, 2023 the tenant sent an email to the landlord saying:

If you are holding onto my mail please let me know and I can meet you at your front door to pick it up if you do not want to bring it downstairs.

The police will be called after a few more days otherwise and they will ask you to return my mail to me instead. I would like to extend you the same courtesy you did to me and send my father in but Im sure my dad breaking into your home is a nono. Also my dad is basically homeless but even he's better than that.

Not a big deal. I had an important envelope sent here on the 15th that was supposed to be here in 10 business days and no less, so it probably hasn't been sitting there long.

If you would like to know what the punishment is for mail theft you can look it up online I'm sure.

The landlord confirmed that he filed this Application on May 12, 2023, seeking an expedited hearing, after being served with the tenant's application and due to the threat contained in the email of April 29, 2023. The landlord pointed to the area that is highlighted to mean the tenant's father will break into his home. The landlord did not, however, report receiving a threat to the police.

The landlord submitted that he and his girlfriend are scared to reside in their home, are suffering anxiety, and have been living at his parent's home since April 14, 2023 due to the tenant's conduct and threat.

### Analysis

Under section 56 of the Act, the Director, as delegated to an Arbitrator, may order the tenancy ended earlier than if the landlord had issued a One Month Notice to End Tenancy for Cause ("One Month Notice") and grant the landlord an Order of Possession. The landlord must demonstrate cause for ending the tenancy and that it would be unreasonable to wait for a One Month Notice to take effect.

Below I have reproduced section 56 of the Act:

- 56** (1) A landlord may make an application for dispute resolution to request an order
- (a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and
  - (b) granting the landlord an order of possession in respect of the rental unit.

(2) 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.

[My emphasis underlined]

Section 47 of the Act provides a mechanism for landlords to bring a tenancy to an end where the tenant has given the landlord cause to end the tenancy. A notice given under section 47 affords the tenant ten days to dispute the One Month Notice or at least one full move to vacate the rental unit. Section 56 also requires that the tenant has given the landlord cause to end the tenancy; however, the seriousness of the alleged

offence(s) or conduct permits the landlord to have the tenancy ended without the time afforded to the tenant under section 47. Accordingly, section 56 is intended to apply in the most urgent and severe circumstances and are processed as an “expedited hearing”.

As provided under Residential Tenancy Policy Guideline 51: *Expedited Hearings*, expedited hearings are reserved for “... circumstances where there is an imminent danger to the health, safety, or security of a landlord or tenant...” The expedited process available for applications made under section 56 of the Act is not intended to permit “queue jumping” and to permit such would undermine the availability of hearings for truly emergency situations.

In the circumstances before me, I find the landlord addressed the incident involving the bleaching of clothes by way of issuing a One Month Notice two days later on April 6, 2023 and the landlord continued to reside in his home until April 14, 2023. I am of the view that if the bleaching incident was so urgent and severe the landlord would have sought medical assistance and filed for an expedited hearing much sooner than May 12, 2023.

The next incident involved loud music on April 14, 2023 while the landlord and his girlfriend were trying to study; however, I do not view loud music to be sufficient basis to end a tenancy under section 56 of the Act.

With respect to the April 29, 2023 email, which the landlord views as a threat that gave rise to this application, I am not satisfied it is a credible threat that the tenant’s father will break into the landlord’s living unit. Rather, I find the message is likely a reference to the landlord’s father entering the rental unit on April 4, 2023 and that the tenant’s father would not do such a thing. I am of the view that if the landlord viewed the message as being a serious and credible threat to harm one’s person or property that the police would have been called to investigate further, which they were not. The landlord also waited 13 days before filing this application yet the landlord is unwilling to wait for the tenant to vacate the rental unit on June 30, 2023 pursuant to the Two Month Notice.

For the reasons provided above, I find there is insufficient basis to grant the landlord’s application for an order to end the tenancy early and obtain an Order of Possession under section 56 of the Act and I dismiss the landlord’s application in its entirety.

It is important to note that this decision has no impact on the ending of the tenancy for landlord's use of property as anticipated on June 30, 2023. Also, the hearing already set for July 21, 2023 remains scheduled unless the hearing is cancelled by the parties.

### Conclusion

The landlord's application for an order to end the tenancy and obtain an Order of Possession under section 56 of the Act 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: June 13, 2023

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Residential Tenancy Branch