



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      ET, FFL

### Introduction

The Landlord filed an Application for Dispute Resolution on June 26, 2023 seeking an order for early termination of the tenancy. This is an expedited hearing process, filed by the Landlord on an emergency status, on the basis that the Tenant poses an immediate and severe risk to the property, other occupants, or the Landlord.

The matter proceeded by way of a conference call hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on July 6, 2023. In the conference call hearing I explained the process and provided the attendees – both the Landlord and the Tenant – the opportunity to ask questions.

The Tenant confirmed they received the Notice of Dispute Resolution Proceeding. The Landlord served that document to the Tenant on June 27, 2023. The Tenant also confirmed they received evidence from the Landlord for this hearing.

### Issue(s) to be Decided

- Is the Landlord entitled to an order of possession that ends the tenancy for cause and without notice by s. 56 of the *Act*?
- 
- Is the Landlord entitled to recover the filing fee for this Application pursuant to s. 72 of the *Act*?

### Background and Evidence

The Landlord and Tenant confirmed the details about the tenancy agreement they provided as evidence for this hearing. The start date was March 19, 2023. The agreement set a rent amount of \$1,850, payable on the first day of each month.

The Landlord described also serving a 10-Day Notice to End Tenancy to the Tenant for unpaid rent in June 2023

The Landlord on their Application for this hearing indicated that “Tenant has admitted to using the premises to store stolen property and sell drugs.” IN the hearing the Landlord stated that they –i.e., the Landlord – were an accomplice to the criminal activities of the Tenant’s acquaintance who was using storage space at the rental unit property to store stolen property, and sell drugs. They stated the police were involved in the matter.

The Tenant in the hearing explained that they were not staying in the rental unit when the tenancy agreement started. Their acquaintance, who moved the Tenant’s items and furniture into the rental unit, was going in and out from the rental unit during the early days.

The Landlord became aware of the Tenant’s acquaintance’s activities from their interaction with the police. This was after the Tenant did not receive rent for June 2023. The police informed the Landlord that an investigation had commenced about the issues with the Tenant’s acquaintance. The Landlord realized the rental unit property was being used for these activities.

The Tenant explained that they gave a reprogrammed code to the Landlord for the storage area. The Landlord then gave this to the Tenant’s acquaintance who proceeded to engage in illegal activity. The Tenant was working with the police to rectify the situation or assist in an investigation.

### Analysis

The *Act* s. 56 provides that a tenancy may end earlier than a normal prescribed period if one or more of the outlined conditions applies. These conditions reflect dire or urgent circumstances. The legislation regarding an order of possession reads as follows:

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 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.

The Act s. 56(2) sets out two criteria. First, the landlord must prove the cause for issuing the Notice. Second, the evidence must show it would be unreasonable or unfair to the landlord to wait for a set-period Notice to End Tenancy to take effect under a different s.47 of the *Act*. The determination of cause considers the following situations of immediate and severe risk:

56(2) . . .

- (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 . . .

I have considered the testimony of the Landlord, as presented in the hearing, of the conduct of the Tenant and/or the Tenant's guest.

The Landlord did not present sufficient evidence or testimony of what they discovered that led them to seek an early ending to the tenancy. There is insufficient evidence of criminal activity, a risk to health or safety, or interference/disturbance. The Landlord broadly described their property was used for criminal activity, but they did not supplement this statement with information on dates, their observations, or the involvement with police. I find it more likely than not that the Landlord received information that there was an investigation, from the police; however, the Landlord at

this stage does not know any details about supposed criminal activity because information was not shared with them.

There is simply not enough information to end the tenancy by the process. The Landlord did not point to direct involvement of this Tenant, and the minimal information provided by the Landlord in the hearing about the Tenant's acquaintance is merely speculation.

I am dismissing this Application for lack of information and detail. Ending the tenancy based on this Application would present a grave unfairness to the Tenant here.

The *Act* s. 56 is reserved for situations where a Tenant commits a serious breach. I find the Tenant's conduct, or that of their guests, described by the Landlord is not on a level with what is set out in s. 56(2).

Because the landlord was not successful in this application, they are not entitled to a return of the application filing fee.

### Conclusion

I dismiss the Landlord's application for an early end of tenancy and an order of possession for the rental unit, without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: July 6, 2023

---

Residential Tenancy Branch