



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for an early end to this tenancy and an Order of Possession pursuant to section 56.

Both parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord was represented by his son AV (the "landlord") who acted as interpreter and agent.

As both parties were in attendance I attempted to confirm service. The tenant confirmed he had been served with the landlord's application for dispute resolution but denied that he was served with the landlord's evidentiary materials. As I find that the written evidence submitted by the landlord consists primarily of photographs of the rental unit and correspondence which does not unreasonably prejudice the tenant or result in a breach of the principles of natural justice, I allowed its inclusion. I have taken this approach after considering the guidance provided by Rule 3.17 of the Rules of Procedure.

### Issue(s) to be Decided

Is the landlord entitled to an early end to this tenancy and an Order of Possession?

### Background and Evidence

The parties agreed on the following facts. This tenancy began in December, 2016 or January, 2017. The monthly rent is \$750.00. The rental unit is a detached building occupied by the tenant and his family.

The landlord testified that they have been informed by the local detachment of the RCMP that the property is being used in an ongoing manner as an instrument of unlawful activity and they should end the current tenancy. The landlord said that they have been threatened with civil forfeiture should they allow the tenancy to continue.

The landlord said that the municipality has previously contacted them about the unsightly nature of the property by a letter dated November 28, 2016. The landlord submitted into evidence a letter from the RCMP dated August 11, 2017 where they are informed that the property has been the subject of police incidents dating back to September 28, 2014.

The tenant testified that he began occupying the rental unit on or about December, 2016 and has no knowledge of activities that occurred on the property prior to his tenancy. The tenant said that he has been cleaning the rental property since the tenancy started but it is an ongoing process. The tenant confirmed that he is in the midst of ongoing issues with the RCMP. He said he has filed a complaint with the complaints commissioner and believes the RCMP is threatening the landlords with forfeiture and restraint as retribution.

### 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.

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 or be considered by way of an application for dispute resolution.

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.

Based on the testimony of both parties and my review of the written evidence, I find that the landlord has failed to prove that any of the circumstances described above exist such that it would be unreasonable or unfair to the landlord or other tenants to serve the tenant with a notice to end tenancy under section 47 of the *Act* and wait for that notice to take effect.

The undisputed evidence of the parties is that the tenancy began, at the earliest, in December, 2016. Much of the written evidence submitted by the landlord pertains to issues which occurred prior to the start of the tenancy. The letter from the municipality dated November 28, 2016 references a different tenant. The letter from the RCMP dated August 11, 2017 references several incidents prior to the start date of the tenancy. Furthermore, the letter from the RCMP dated August 11, 2017 states that "the property could be subject to restraint and forfeiture".

The landlord testified that they understood they are being advised to end the current tenancy. However, I find there is little evidence linking the police incidents to the tenant. The letter advises that the property has been the focus of incidents and lists the police file numbers but does not mention the tenant by name. The incidents mentioned span a timeframe from September 28, 2014 to August 9, 2017. The parties have provided undisputed evidence that the tenant was not an occupant on the rental premises until December, 2016. I find there is insufficient evidence that the tenant or someone allowed on the property by the tenant is the person responsible for the police file numbers listed. Based on the evidence submitted by the parties I find, on a balance of probabilities that the landlord has not shown that the tenant's actions or negligence has given rise to a reason for this tenancy to end. Additionally, I find there is insufficient

evidence to conclude that the tenant poses a risk to the landlord's property such that it would be unreasonable to wait until a notice to end tenancy pursuant to section 47 of the Act could take effect.

Consequently, I dismiss the landlord's application.

### 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: September 19, 2017

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Residential Tenancy Branch