



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      ET FFL

### **Introduction**

This hearing dealt with the landlords' 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; and authorization to recover the filing fee for this application, pursuant to section 72.

While the landlords attended the hearing by way of conference call, the tenants did not. I waited until 9:42 a.m. to enable the tenants to participate in this scheduled hearing for 9:30 a.m. The landlords were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlords and I were the only ones who had called into this teleconference.

The landlords testified that the tenants were served with the landlords' application for dispute resolution package and evidence on March 20, 2020, by way of registered mail. The landlords provided the tracking information in their evidentiary materials. In accordance with sections 88, 89, and 90 of the *Act*, I find the tenants deemed served with the landlord's application and evidence on March 25, 2020, 5 days after posting. The tenants did not submit any written evidence for this hearing.

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

Are the landlords entitled to an early end of tenancy and an Order of Possession?

Are the landlords entitled to recover the filing fee for this application from the tenants?

## **Background and Evidence**

This fixed term tenancy began on November 1, 2019. The monthly rent is set at \$1,485.00, payable on the first of every month. The landlords collected a security deposit in the amount of \$742.50, and a pet damage deposit in the amount of \$300.00, which they still hold.

The tenants were served with a 1 Month Notice to End Tenancy for Cause on February 10, 2020, with an effective date of March 31, 2020. A hearing is scheduled for May 8, 2020 to deal with the landlord's application for an Order of Possession pursuant to the 1 Month Notice.

The landlords testified that filed this application for an early termination of this tenancy on an urgent basis as the issues with the tenants are ongoing, and have escalated since they were served with the 1 Month Notice. The landlords have received multiple complaints from other tenants and from the strata manager. The landlords are concerned due the nature of the incidents, which include the attendance of police.

The landlords testified that the last police incident took place on March 16, 2020, due to what is believed to a domestic violence incident. The police had to make several attempts through different parties to gain access to the rental unit. The landlords testified that although no new incidents involving the police have taken place since that date, the tenants continue to engage in behaviour that has made the residents in the neighbouring units fearful for their safety. The landlords included copies of their written complaints in their evidentiary materials as well as notices of bylaw infractions for noise.

The landlords testified that the tenants would disturb the other residents by yelling and screaming, and making an excessive amount of noise. The landlords testified that many of these residents are elderly and have become very uncomfortable as a result of the ongoing behaviour of the tenants. The landlords testified that the tenants are disrespectful, and have denied them entry to inspect the rental unit despite the landlords' notice to enter the rental unit. The landlords are concerned that the tenants may have caused damage to the rental unit.

## **Analysis**

The landlords, in their application, requested an Order of Possession on the grounds that the tenants have acted, and continue to act, in a manner that has significantly interfered with or unreasonably disturbed the landlords and other occupants, as well as

jeopardizing their safety. The landlords are also concerned about possible damage to the rental unit.

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 of the *Act* for a landlord's notice for cause. In order to end a tenancy early and issue an Order of Possession under section 56 of the *Act*, I need to be satisfied that the tenants have 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.*

The reasons cited in the landlords' application would need to be supported by sworn testimony and/or written, photographic or video evidence in order to qualify for the first part of section 55 of the *Act*. The landlords submitted detailed evidence that documents the numerous complaints that they have received from other residents as well as the strata manager, as well as notices of bylaw infractions.

Separate from whether there exist reasons that would enable a landlord to obtain an Order of Possession for Cause, the second part of section 56 of the *Act* as outlined above would only allow me to issue an early end to tenancy if I were satisfied that it would be unreasonable or unfair to the landlord to wait until an application to end the tenancy for cause were considered.

The landlords have issued a 1 Month Notice to End Tenancy for Cause, and are awaiting a hearing scheduled for May 8, 2020, but feel that this matter is urgent as the tenants continue to engage in behaviour that has disturbed other occupants as well as the landlord.

In this case, although I am sympathetic to the landlords and the other residents in the building, I find that the landlords' application falls well short of the requirements outlined in section 56 of the *Act*. An early end to tenancy is to be used only in situations where there is a compelling reason to address the dispute very quickly and when circumstances indicate that the standard process for obtaining an Order of Possession following the issuance of a 1 Month Notice for Cause would be unreasonable or unfair.

Although the landlords have issued a 1 Month Notice for Cause, and although the landlords have provided evidence to support that they and other residents are concerned and fearful for the safety of neighbouring residents due to the ongoing actions of the tenants, I find that the landlords have failed to provide sufficient and compelling evidence to support why the standard process of obtaining an Order of Possession following the issuance of a 1 Month Notice for Cause to be unreasonable or unfair. I am not satisfied that the immediate health or safety of others are in jeopardy, or that their property is at significant and immediate risk if this tenancy is not ended early.

The issuance of a 1 Month Notice does not automatically qualify a party to apply under section 56 of the *Act*. The party must provide compelling reasons, supported by evidence, for why they cannot wait for the standard process of obtaining an Order of Possession. For these reasons, I dismiss the landlords' application for an early end to this tenancy.

The filing fee is a discretionary award issued by an Arbitrator usually after a hearing is held and the applicant is successful on the merits of the application. As the landlords were not successful, the landlords must bear the cost of this filing fee.

### **Conclusion**

I dismiss the landlords' application in its entirety. This tenancy continues 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: April 14, 2020

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Residential Tenancy Branch