



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET

### Introduction

This hearing was convened as a result of the landlord's application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act). The landlord applied for and completed their application on July 3, 2022 for an order ending the tenancy earlier than the tenancy would end if a notice to end the tenancy were given under section 47 of the Act [landlord's notice for cause].

The landlord, RG, and the landlord's daughter, RoG, attended and the parties were affirmed. RoG provided the bulk of the testimony due to the hearing issues of the landlord. Additionally, RoG was listed as an applicant.

As the tenant did not attend, the matter of service of the landlord's application on the tenant was considered. The landlord submitted evidence showing that the tenant was served the landlord's Application for Dispute Resolution, evidence, and Notice of Hearing (application package) by registered mail on July 16, 2022. The landlord filed the Canada Post receipts containing the tracking number for the service by registered mail.

I find the landlord submitted sufficient evidence that the tenant was served the landlord's application as required under section 89(1) of the Act and the hearing proceeded in the tenant's absence.

The landlords were provided the opportunity to present their evidence orally and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). However, not all details of the landlord's submissions are reproduced here; further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Issue(s) to be Decided

Has the landlord provided sufficient evidence to end the tenancy early and obtain an order of possession pursuant to section 56 of the Act?

Background and Evidence

The landlord provided a written tenancy agreement showing the tenancy began on January 2, 2022. The rental unit was confirmed to be a single room occupancy in a multiple bedroom home owned by the landlords.

To support their application, the landlord wrote the following:

*Significant health & safety concern in unit which needs to be remediated. Carpets were professionally cleaned in Jan 2022. Due to its current state, mentioned that wanted to have a professional come in to assess the work. Carpet from the common area upstairs has been removed without authorization and put in vacant main floor bedroom. Gaffer's tape has been placed around baseboards of kitchen. Vacant upstairs bedroom occupied without authorization - dishes with food scraps and mouldy food found.*

[Reproduced as written]

The relevant evidence filed by the landlord included a written statement of issues, photos of the rental unit, videos, and a copy of a 1 Month Notice to end tenancy for cause. I note that the section of the 1 Month Notice to list the Details of Cause was in very small print, was fuzzy, and was not legible.

RG and RoG provided testimony and written evidence. The evidence included, but was not limited to the following:

- The landlord thought the condition of the rental unit had deteriorated.
- The residential property was not supposed to be multiple single room occupancy units, but was meant to be under one tenancy agreement.

- The landlord agreed to let the tenants living in the residential property at the start of Covid sign separate tenancy agreements so they could collect CERB payments.
- Another tenant, GB, took over the entire top floor without authorization.
- GB removed the carpet in the upstairs and installed it in a vacant, main floor bedroom.
- The tenant moved into his rental unit in January 2022 and “rightfully” asked about the carpet in the rental unit.
- RoG said that after the tenant asked about the carpet, the landlord had a carpet company come out and they are waiting on the company.
- RG testified about GB, saying they brought in multiple animals into the rental unit, who caused damage to the carpet and the bathtub.
- GB caused the flood in the bathroom, most likely from allowing it to overflow.
- The landlord stated that they were told that the carpet would all have to be replaced, with a recommendation that all new flooring be put in.
- The landlord stated that they were told that the residential property needed to be empty to accommodate the new flooring.
- The landlord submitted they did not know which of the tenants caused damage to the rental unit.
- The landlord wants all tenants vacated from the residential property in order to have the residential property revert to a single family dwelling. This would allow the landlord to afford the homeowner’s insurance, which has doubled.
- The tenant is currently the only remaining tenant and the landlord cannot afford the mortgage with the smaller rent.
- RG said that from his point of view, every tenant over the last two years have contributed to any damage.
- RB said he does not want to deal with the tenant.
- The landlords submitted that RG’s mental and physical health have suffered due to the ongoing issues with the residential property.
- The landlords submitted they did not trust the tenant.

### Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

The onus to prove their case is on the person making the claim, in this case, the landlord. The standard of proof is on a balance of probabilities.

Section 56 (2) of the Act applies and states 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.

(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.

Residential Tenancy Branch Policy Guideline PG-51 [Expedited Hearings] provides further clarification at part B:

*... there are circumstances where the director has determined it would be unfair for the applicant to wait 22 days for a hearing. These are circumstances where there is an **imminent danger to the health, safety, or security of a landlord or tenant**, or a tenant has been denied access to their rental unit. (bold emphasis added) ...*

*Applications to end a tenancy early are for **very serious breaches only** and require sufficient supporting evidence. An example of a serious breach is a tenant or their guest pepper spraying a landlord or caretaker. **The landlord must provide sufficient evidence to prove the tenant or their guest committed the serious breach**, and the director must also be satisfied that it would be unreasonable or unfair to the landlord or other occupants of the property or park to wait for a Notice to End Tenancy for cause to take effect (at least one month).*

In this case, I find the landlord submitted insufficient evidence to support their application. The oral and written evidence directly shows that the issues in this matter are directly attributable to another tenant, GB, and not the tenant this application is filed against.

The landlords said they did not know which of the various tenants over the last 2 years caused any damage. Despite that testimony, the landlords further testified GB removed the carpet, that GB's dogs damaged the bathtub, and that GB caused the flood.

The landlords testified that the tenant "rightfully" asked about the carpet, even though they never said what the tenant asked about. I find the landlord never sufficiently explained what, if anything, the tenant did wrong in this tenancy.

I have reviewed the photographs and do not find the building fixtures were damaged. At most, I find some of the rental unit could use cleaning. I find the landlord's evidence of a moldy food jar to support an emergency end to the tenancy to be frivolous and not relevant.

I find overall the landlords' purpose in filing this application was to remove the last remaining tenant so that they could return the residential property to a single family dwelling in order to save on insurance, install a new floor throughout the residential property, and obtain more monthly rent to help with expenses.

I do not find this tenant responsible for anything they are accused of in this application.

For these reasons, I find the landlord provided insufficient evidence to support their application and I therefore **dismiss** the landlords' application, **without leave to reapply**.

I order the tenancy to continue until otherwise ended in accordance with the Act.

Conclusion

The landlord's application fails due to insufficient evidence and is dismissed without leave to reapply as a result.

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*. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in 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: November 17, 2022

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Residential Tenancy Branch