



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## Decision

### Dispute Codes:

ET and FF

### Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an early end to tenancy, an Order of Possession, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

The Agent for the Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were personally served on the Tenant on, or about, January 23, 2009. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

### Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to end this tenancy early, to an Order of Possession, and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 56 and 72 of the *Act*.

### Background and Evidence

The Agent for the Landlord stated that this tenancy began on December 01, 2008.

The Agent for the Landlord stated that a One Month Notice to End Tenancy for Cause, which had an effective date of February 08, 2009, was posted on the front door of the rental unit on January 05, 2009. The Notice informed the Tenant that if they did not file an Application for Dispute Resolution to dispute the Notice within ten days of receiving it, they are presumed to have accepted the Notice and they must vacate the rental unit by the date set out on the Notice. The Agent for the Landlord stated that she is aware that the actual effective date of the posted Notice to End Tenancy is February 28, 2009, although she did not realize that at the time it was posted.

The Agent for the Landlord stated that she is seeking to end the tenancy earlier than February 28, 2009, due to the excessive noise being caused by the tenant and his

continued disrespect for other tenant's right to quiet enjoyment. The Agent for the Landlord presented the following in support of her application for an early end to tenancy:

- The Agent for the Landlord stated that the Tenant plays his music excessively loudly almost every weekend and generally on every second day between Monday and Friday
- The Agent for the Landlord stated that the Tenant generally plays his music so loudly that it reverberates throughout the hallway adjacent to his rental unit
- The Agent for the Landlord stated that most occupants are not disturbed by the Tenant's music because they are separated from him by a fire door
- The Agent for the Landlord stated that the only occupants who share the same area of the complex as the Tenant are the male living above the Tenant and a male living beside the him in unit #116
- The Agent for the Landlord stated that the male living above the Tenant has mental health issues and is not capable of writing a letter of complaint
- The Agent for the Landlord stated that a care worker for the male living above the Tenant has given notice to end tenancy on behalf of the male, however she does not know if that is in relation to the noise caused by the this Tenant
- The Agent for the Landlord stated that on January 05, 2009 she personally heard extremely loud music coming from the Tenant's rental unit at 2:30 a.m., at which time she asked him to lower the volume of his music
- The Agent for the Landlord stated that on January 05, 2009 she again heard extremely loud music coming from the Tenant's rental unit at 4:00 a.m
- The Agent for the Landlord stated that on January 06<sup>th</sup> or 07<sup>th</sup> she called the police around 11:00 p.m. due to the volume of the music coming from the rental unit. She stated that the occupants refused to open the door when the police knocked, although they did reduce the volume of their music. She stated that she called the police again the same evening, at approximately 2:00 a.m., but the occupants still would not open the door for the police. She stated that the music continued in the rental unit until approximately 4:30 a.m.
- The Agent for the Landlord stated that on January 09, 2009 the Tenant in unit 116 called the police around 2:00 a.m. due to the volume of the music coming from the rental unit. She stated that the occupant again refused to open the door when the police knocked, although they did reduce the volume of their music
- The Agent for the Landlord stated that on January 12, 2009 she called the police due to the volume of the music coming from the rental unit. She stated that the occupant again refused to open the door when the police knocked, although they did reduce the volume of their music before the police knocked on the door, as she believe they saw the police arrive at the complex
- The Agent for the Landlord stated that on January 20, 2009 at approximately 2:30 a.m. she called the police due to the volume of the music coming from the rental unit. She stated that the occupant again refused to open the door when the police knocked, although they did reduce the volume of their music before the

police knocked on the door, as she believes they saw the police arrive at the complex

- The Agent for the Landlord stated that on January 16<sup>th</sup> or 17<sup>th</sup> she called the police as the Tenant was still playing loud music at 7:00 a.m. She stated that the police did not attend as they were busy, although they phoned at 9:30 a.m., at which time they were advised that the music had stopped.
- The Agent for the Landlord stated that she has not phoned the police since January 23, 2009, although the music continues to be played at excessively loud levels most afternoons and into the evenings until approximately 10:30 p.m.
- The Agent for the Landlord stated that she has spoken with the Tenant regarding the noise on several occasions and on each occasion he simply tells her he “doesn’t know what loud is”. On each occasion he assures he will reduce the noise level but he continues to play his music excessively loudly
- The Agent for the Landlord submitted a copy of a letter from the occupant in unit 116, dated January 06, 2009. In that letter, the occupant in unit 116 stated that the Tenant has played his music loudly every weekend since December 01, 2008, in spite of his request to have him shut it off at 11:00 p.m.
- In the letter dated January 06, 2009, the occupant in unit 116 stated that the Tenant played loud music until 7:00 a.m. on January 06, 2008, even after the occupant banged on his wall at 11:30 p.m. on January 06, 2009 and at 12:30 a.m. on January 06, 2009, and knocked on his front door at 2:30 a.m. on January 06, 2009
- The Agent for the Landlord submitted a copy of a letter from the occupant in unit 116, dated January 21, 2009. In that letter, the occupant in unit 116 stated that the Tenant continued to disturb him with loud music, and that he had played his music until 2:30 a.m. on January 21, 2009. In this letter the occupant stated he has missed two days of work due to the sleep disruptions
- The Agent for the Landlord stated that her sleep is also being disrupted because she has to deal with the noise complaints in the evening/early morning hours.

### Analysis

Section 56(2)(a)(i) of the Act authorizes me to end a tenancy early if the tenant or a person permitted on the property by a tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property and it would be unreasonable or unfair to the landlord or other occupants of the residential property to wait for a notice to end tenancy under section 47 of the *Act* to take effect.

In the absence of evidence to the contrary, I find that the Tenant or his guests have unreasonably disturbed the Landlord and the occupant in rental unit 116 by repeatedly and regularly playing his music loudly in the early hours of the morning. In the circumstances presented I also find that it would be unreasonable and unfair to the Agent for the Landlord and the occupant in rental unit 116 to wait until February 28,

2009 to end this tenancy, as his continued presence is likely to continue to unreasonably disturb these individuals. In reaching this conclusion, I considered the following:

- The Tenant has not responded to several requests to reduce the volume of his music from the occupant in unit 116, which causes me to conclude he is not likely to respect the occupant's right to quiet enjoyment for the remainder of February
- The Tenant has not responded to several requests by the Landlord to reduce the volume of his music, which causes me to conclude he is not likely to respect the occupant's right to quiet enjoyment for the remainder of February
- The police have attended the residence on several occasions and the Tenant has ignored their attempts to communicate, which causes me to conclude he is not likely to respect the occupants right to quiet enjoyment for the remainder of February
- The Tenant has made no attempts to modify his behaviour in spite of repeated requests
- The disturbance has caused the occupant in unit 116 to miss work due to his inability to sleep and it would be unreasonable and unfair to risk further absences due to the Tenant's unwillingness to respect another occupant's right to quiet enjoyment
- The Agent for the Landlord has been required to address this issue late at night on several occasions and it would be unreasonable and unfair to risk further disruptions given the Tenant's apparent unwillingness to alter his behaviour.

### Conclusion

I find that the Landlord has established grounds to end this tenancy early, pursuant to section 56(2)(a)(i) and I hereby grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenant. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

I also grant the Landlord a monetary Order in the amount of \$50.00, as compensation for the filing fee paid by the Landlord for this application. In the event that the Tenant does not voluntarily comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court, and enforced as an Order of that Court.

Date of Decision: February 02, 2009.

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