



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      ET, FF

### Introduction

This matter dealt with an application by the Landlord for an order ending the tenancy earlier than it would if the Landlord was required to wait for the notice period for a Notice under s. 47 of the Act to take effect. The Landlord also applied to recover the filing fee for this proceeding.

The Landlord served the Tenants in person on June 3, 2009 with a copy of the application, Notice of Hearing and evidence package. The Landlord said she was accompanied by a witness at that time. I find that the Tenants were served as required by s. 89 of the Act and the hearing proceeded in their absence.

### Issues(s) to be Decided

1. Is the Landlord entitled to end the tenancy?

### Background and Evidence

This tenancy started in 2006. The Landlord said that on a number of occasions, she gave the Tenants written notices that she wanted to inspect the rental property but they always denied her access and eventually changed the locks. The Landlord also said that in November 2008 she noticed approximately 20 cats in or about the rental property and contacted the SPCA about it but the SPCA would not do anything. The Landlord gave the Tenants a letter dated December 4, 2008 advising them that she wished to do an inspection because she had concerns about the number of cats in the rental unit. The Landlord claimed that shortly thereafter, the cats went missing.

On May 12, 2009, the SPCA executed a warrant on the rental unit and found 18 dead cats in the garage with the radio playing loudly. The Landlord said she received a written notice from the Tenants the following day that they were ending the tenancy on May 31, 2009. The Landlord did an inspection of the rental unit on May 15, 2009 and at the same time took pictures of the interior and exterior of the rental unit. The Landlord said the garage has a strong odour that will likely require the services of a restoration company to remove. She also said that there is cat urine and piles of cat feces throughout the rental unit. The photographs generally show the interior of the rental unit to be in very poor condition and filthy throughout. The Landlord said she has also

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received a notice dated May 21, 2009 from the City of Kelowna advising her that the condition of the rental property is in contravention of the nuisance by-law and ordering her to remove an “unsightly accumulation of discarded materials on or before June 8, 2009.”

The Landlord said that despite having given written notice they are ending the tenancy, the Tenants do not intend to move as their belongings are still in the rental unit and they tried to pay June rent.

## Analysis

Section 56 of the Act says that a Landlord may apply to end a tenancy earlier than it would end if a Notice to End tenancy for Cause under s. 47 of the Act had to be given. In order to succeed on such an application, the Landlord must show that one or more of the grounds set out in subsection 56(2) of the Act exists and that it would be unreasonable or unfair to have to wait for a Notice to End Tenancy under s. 47 of the Act to take effect. In other words, the Landlord must show that the Tenants’ conduct is so serious or urgent that it warrants eviction on an expedited basis.

Section 32 of the Act says that a tenant is responsible for maintaining reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. I find that the Tenants have failed to clean or maintain the rental unit at all but rather have allowed it to deteriorate to the extent that it is uninhabitable in its current condition. In addition to the 18 dead cats that were found in the garage by the SPCA, the interior of the rental unit is covered in filth from ceiling to floor and littered with garbage as well as cat excrement. The exterior of the rental unit is also littered with garbage and the Landlord claims the neighbouring property owners have complained about a strong odour emanating from the rental property.

In the circumstances I find that the Tenants have put the Landlord’s property at significant risk and seriously jeopardized a lawful right or interest of the Landlord. Given the severity of the damage to the rental unit, I find that it would be unreasonable and unfair to the Landlord to wait for a Notice to End Tenancy under s. 47 of the Act to take effect. The Landlord requested and I find pursuant to s. 56 of the Act that she is entitled to an Order of Possession to take effect immediately.

As the Landlord has been successful in this matter, she is also entitled to recover her \$50.00 filing fee and pursuant to s. 72 of the Act, she may deduct that amount from the Tenants’ security deposit.



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## Conclusion

An Order of Possession to take effect immediately has been issued to the Landlord and a copy of it must be served on the Tenants. The Order of Possession may be enforced in the Supreme Court of British Columbia.

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: June 09, 2009.

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Dispute Resolution Officer