



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      ET, FF

### Introduction

This hearing was scheduled in response to the landlords' application for Dispute Resolution, in which the landlord has applied for an Order of Possession on an Early End to Tenancy and to recover the filing fee for the cost of the application from the tenant.

The landlord stated that the application and Notice of hearing was posted to the tenants' door on September 11, 2009 and a witness has supplied a statement to this effect. 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.

### Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to end the tenancy early; gain an Order of Possession on the basis of his application to end the tenancy early and to recover the filing fee from the tenant for the cost of this application pursuant to section 56 and 72 (1) of the *Act*.

### Background and Evidence

The landlord stated that this tenancy started on June 01, 2009. He stated that the tenant has not paid rent and two 10 Day Notices to End the Tenancy were issued for unpaid rent in July and August 2009. The landlord testifies that the tenant has given keys to the

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unit to a number of persons and these persons appear to either reside at the rental unit or use it on a frequent basis. The tenants' guests cause a considerable amount of noise with late night parties, shouting, screaming and slamming doors. The tenant and his guests have also written graffiti on the walls of the building. The landlord testifies that four of his other tenants have now moved from the building because they are scared of the tenant and his guests and the other tenants are significantly disturbed by the tenant's guests. The landlord testifies that these guests or the tenant have left the taps running which has caused water to flood into the unit downstairs.

The landlord has received information from the local newspaper that the tenant has been arrested on suspicion of armed robber and has had two court appearances to deal with this matter. He has attempted to find out if the tenant has been incarcerated as he has not returned to the rental unit but has not been able to get this information from the RCMP.

## Analysis

Section 56(2) of the *Act* authorizes me to end a tenancy earlier than the tenancy would end if Notice to End Tenancy were given under section 47 of the *Act* and grant an Order of Possession for the rental unit if the tenant or persons 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

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(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, and

(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.

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

I find that the landlord has provided sufficient evidence, pursuant to section 56 of the *Act*, to show that the tenant or persons permitted on the property have significantly interfered with or unreasonable distributed other occupants of the residential property. To date four other tenants have given the landlord notice to end tenancy because of the behaviour of the tenant and his guests. The late night parties, shouting, door banging and other related incidents have also adversely affected the quiet enjoyment of the other tenants. The tenant has given his key to a number of guests and as such they have been using the property as if it is their own. This also has a significant impact on the other tenants' security and safety as these guests are unknown to the landlord. The tenants or his guests have also caused damage to the landlords' property by leaving taps running causing some flooding to the unit below.



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Due to the above I am satisfied, that it would be unreasonable and unfair for the landlord to wait for a One Month Notice to End Tenancy under section 47 of the *Act* to take effect and allow the landlords application for an early end to the tenancy.

## Conclusion

The landlords' application for an Order to end the tenancy early is granted. An Order of Possession to take effect **48 hours after service on the tenant** has been issued to the landlord. A copy of this Order must be served on the tenant. The Order of possession is enforceable through the Supreme Court of British Columbia.

I also find the landlord is entitled to recover the cost of filing his application. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$50.00**. The order must be served on the tenant and is enforceable through the Provincial Court as an order of that Court.

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 18, 2009.

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Dispute Resolution Officer