



# 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 states that the application and Notice of hearing was served to the tenant by registered mail on August 05, 2010. Mail receipt numbers were provided in the landlord's documentary evidence. The tenant was deemed to be served the hearing documents on August 10, 2010, the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlords' agent appeared, gave affirmed testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered

### Issues(s) to be Decided

Is the landlord entitled to end the tenancy early and gain an Order of Possession on the basis of the 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

This tenancy started on September 01, 2001. This is now a month to month tenancy. The rent for this unit is \$1,115.00 per month and is due on the first of each month. The tenant paid a security deposit of \$450.00 on August 06, 2001.

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The landlord states the tenant has not maintained the rental unit in a safe and hygienic manner. An inspection of the tenants unit took place on July 29, 2010 and was found to be unsafe due to the extreme hygiene issues. The tenant has waist high garbage and belongings in the unit, and he is found to be living in his own human waste surround by fecal matter. The toilet and bath are blocked and the tenant did not notify the landlord of this. The landlord states the unit is a fire hazard and she has concerns for the neighbouring tenants with regard to the fire and health hazards this unit presents and the serious risk of infestation.

The landlord states that the police and mental health team have been notified and have become involved. The landlord states the unit is in such a terrible condition she will not be able to send her own cleaners in to the unit and will have to get a hazardous material team in to clear the unit out. The landlord has provided photographic evidence and a letter from the tenant from a previous year when it was also brought to his attention about keeping his unit in a safe and hygienic condition.

The landlord seeks an Order of Possession on an Early End to Tenancy and seeks to recover the filing fee paid for this application.

## Analysis

Section 56(2) of the *Act* authorizes me to end a tenancy earlier then 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 has not maintained a reasonable level of cleanliness in his unit to the extent that he is in danger of jeopardizing the health of other tenants through fire risk or infestation. The landlord has also provided evidence to show that the tenant has put the landlords' property at significant risk and has caused or is likely to cause damage to the landlords' property by not reporting the broken toilet and bath, placing his own fecal matter in the unit and the overall filthy condition of the unit.

It is therefore my decision that it would be 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 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 has been issued to the landlord to take effect **two days** after service on the tenant.



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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 find that the landlord is entitled to be reimbursed for the **\$50.00** cost of filing this application. I order that the landlord retain this amount from the security deposit and accrued interest of \$471.60 leaving a balance of \$421.60 which must be returned to the tenant or otherwise dealt with in compliance with section 38 of 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: August 13, 2010.

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Dispute Resolution Officer