



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: ET

### Introduction

This application was brought by landlord on December 15, 2011 seeking an Order of Possession to end the tenancy early under section 56 of the *Act*. This section permits such applications in situations where it would be unreasonable for the landlord to wait for an order under section 47 of the *Act* which requires a Notice to End Tenancy of a minimum of one month.

### Issue(s) to be Decided

This application requires a decision on whether the landlord is entitled to an Order of Possession under the requirements of section 56 of the *Act* and, if so, the effective date of such order.

### Background and Evidence

This tenancy began on August 1, 2011. Rent is \$850 per month plus half of the utilities and the landlords hold a security deposit of \$425.

During the hearing, the property manager gave evidence that the application had been made after an incident on December 12, 2011 that so distressed the landlords that they engaged him to assist with ending the tenancy.

The incident in question followed service by the landlord of a Notice to End Tenancy for unpaid utilities accompanied by a letter appealing to the tenants for payment of the outstanding utilities. For some reason, the tenants took great offense to the letter which may have been somewhat unpolished as it was in the landlord's second language, but did not appear to contain any nefarious intent.

On receiving the letter and notice, the male tenant went to the landlord's door upstairs and told the female landlord that her husband's letter constituted hate mail and invited suit. Shortly after, the female tenant also knocked on the landlord's door, embarked on a loud rebuke and attempted to push her way in while the female landlord attempted to hold her at bay. Police were called and subsequently advised the landlord to call them if there was a further such incident.

The female landlord was somewhat traumatized by the incident and feared her daughter being exposed to it. She stated through the property manager/translator that has been uncomfortable in her home ever since fearing a recurrence and notes that her husband is a trucker who is away much of the time.

The tenant's further took strong offense to an initial telephone call from the property manager who stated his only intention was to explore a mutual agreement to end the tenancy. There was some debate about whether he had properly identified himself; the manager said he had introduced himself when he first called, but when the tenants called him back somewhat tense, he simply assured them his name and that of his company would be on future correspondence with them.

### Analysis

Section 56(2)(a)(iv)(A) of the *Act* authorizes a designate of the Director to issue an Order of Possession in circumstances in which a tenant , "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."

I find that the tenants did adversely affect the quiet enjoyment and security of the landlords in refusing to take leave from the landlord's threshold when asked to do so and particularly in the female tenant's physical contact with the landlord who had every right to deny the entry to her home.

Therefore, I find that the landlord is entitled to the Order of Possession.

While it is common with such orders under section 56 of the *Act* to take effect much sooner, the property manager, in noting that there have been no similar incidents prior to or since December 12, 2011, agreed to extending the tenancy to January 31, 2012.

Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, effective at 1 p.m. on January 31, 2012.

The tenants made promise to leave the rental unit clean and undamaged, and the property manager made promise to arrange and attend the move-out condition inspection report and to expedite return of the security deposit if all was in good order.

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: December 28, 2011.

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Residential Tenancy Branch