



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Code:** ET

### **Introduction:**

This is the Landlords' application for an early end to the tenancy and an Order of Possession.

Both parties gave affirmed testimony at the Hearing.

The parties confirmed receipt of each other's documentary evidence.

### **Issue to be Determined:**

Have the Landlords shown that there is cause to end this tenancy and that it would be unreasonable or unfair to wait for a one month Notice to End Tenancy under the *Residential Tenancy Act* (the "Act") to take effect?

### **Background and Evidence:**

The Landlord gave the following testimony:

The Landlord testified that the Tenant assaulted the co-manager on March 22, 2011. She stated that the Tenant pushed the co-manager and put his arms around his throat. The Landlord testified that she and another occupant ("TH") were present and that the Tenant was drunk at the time of the assault and that the Tenant also appeared to be on drugs. She stated that his pupils were dilated and that he was very strong, pushing the co-manager who weighs 260 pounds off the ground.

The Landlord testified that the Police were called and arrested the Tenant. She stated that the Tenant was released on an Undertaking not to have contact with the co-manager, TH, or the Landlord, except with respect to business related directly to his tenancy.

The Landlord is concerned about the safety of other occupants in the building, including herself and the co-manager. The Landlord testified that the Tenant was re-arrested one week ago for having contact with TH and was released on another bail document for that breach.

The Landlord provided a copy of the Undertaking, a copy of the handwritten statement of TH and a copy of a letter from a probation officer advising the co-manager of the Undertaking and asking the co-manager to contact the Probation Office if the Tenant violated the terms of the Undertaking or if the co-manager was concerned for his safety at any time.

The Tenant gave the following testimony:

The Tenant stated that he didn't understand why the Landlord was so worried about her safety or the safety of the co-manager and TH. He stated that he was protecting himself when he gave the co-manager a "shove". The Tenant testified that the co-manager came to see him in his suite at 10:30 a.m. on March 22, 2012, and raised his voice in a threatening manner.

The Tenant denied being drunk. He stated that there was a bottle of alcohol on the counter and that he had been drinking the night before, but was not drunk that morning. He also stated that he takes 250 mg of codeine a day to control pain due to physical problems including arthritis. The Tenant stated that he suffers from depression and anxiety and has no intentions of hurting anybody.

The Tenant stated that the police released him and that he didn't have to stay in jail and appear before a judge, so it wasn't that serious.

The Tenant admitted getting in touch with TH contrary to his Undertaking, but stated that she had called him to ask for \$40.00 and he was calling her back. He stated that TH used to be his friend.

**Analysis:**

In making an application for an early end to this tenancy the Landlord has the burden of proving that there is cause for ending the tenancy early, such as unreasonably disturbing other occupants; seriously jeopardizing the health and safety or lawful right or interest of the landlord or another occupant; and placing the landlord's property at significant risk. The Landlord must also satisfy me that it would be unreasonable or unfair to the Landlord or other occupants to wait for a one month Notice to End Tenancy for cause under Section 47 of the Act to take effect.

The Tenant stated that he was acting in self defence when he pushed the co-manager. TH indicates in her written statement that she was there and that the Tenant had been drinking. She also indicates that the co-manager came to the Tenant's suite to apologize for any disturbance in regards to the plumber flushing out the pipes. In her written statement, she writes that she saw the Tenant "lunged out of his door way @ [the co-manager] with his arms up as though he were going to try and choke [the co-manager]."

The Police attended, arrested the Tenant, and released him on an Undertaking. An Undertaking, whether issued by the Police, a JP, or a Judge, is a document that releases a person after they have been charged and is their promise to abide by certain conditions pending trial or disposition of the charges against them. The Tenant downplayed the seriousness of the Undertaking, has already breached it, and I find that the Landlord has reason to be concerned about the Tenant abiding by its terms.

Based on the affirmed testimony of both parties and documentary evidence of the Landlord, I am satisfied that the Landlord has proven on the balance of probabilities that the Tenant has seriously jeopardized the health and safety or lawful right or interest of the Landlord or another occupant and that it would be unreasonable or unfair to the Landlord and the other occupants of the building to wait for a one month Notice to End Tenancy for cause to take effect.

I order that the end-of-tenancy date is today, April 5, 2012, and find that the Landlord is entitled to an Order of Possession effective **2 days after service of the Order upon the Tenant.**

**Conclusion:**

I hereby provide the Landlord an Order of Possession **effective two days from service of the Order upon the Tenant.** This Order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced 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: April 05, 2012.

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Residential Tenancy Branch