



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPC, ET/OP, FF

### Introduction

This hearing concerns the landlord's application for an order of possession for cause, an early end of tenancy / order of possession, and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

### Issue(s) to be Decided

Whether the landlord is entitled to any of the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

There is no written tenancy agreement in evidence for this tenancy which began on June 15, 2012. The parties claim to have entered into a five year agreement pursuant to which, in lieu of rent, the tenant will undertake certain improvements to the property. No security deposit was collected.

There was recently a fire on the grounds which resulted in a burned down shed / shop. The parties consider that the source of the fire was a generator, and each blames the other for causing the fire. While photos of fire damage have been submitted in evidence, there is no authoritative documentary evidence in support of a particular cause of the fire.

The landlord also claims that the tenant has damaged the cabin, as well as other property, and that he has rendered the grounds unsightly in a number of ways. While the landlord has requested an order of possession for cause, the landlord has not issued a 1 month notice to end tenancy for cause.

Arising from all of the above, the landlord seeks an early end of tenancy and an order of possession.

## Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

Section 56 of the Act addresses **Application for order ending tenancy early**, and provides in part as follows:

56(1) A landlord may make an application for dispute resolution to request an order

(a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and

(b) granting the landlord an order of possession in respect of the rental unit.

(2) The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,

(a) the tenant or a person 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;
- (v) caused extraordinary damage to the residential property, and,...

(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.

Based on the documentary evidence and testimony of the parties, I find on a balance of probabilities that the landlord has failed to meet the burden of proving entitlement to an early end of tenancy / order of possession. Accordingly, the landlord's application is hereby dismissed.

As the landlord has not succeeded in obtaining an early end of tenancy / order of possession, the aspect of the application concerning recovery of the filing fee is also hereby dismissed.

Finally, for reference, the attention of the parties is drawn to section 47 of the Act which speaks to **Landlord's notice: cause**.

### Conclusion

The landlord's application is hereby dismissed.

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: October 01, 2012.

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Residential Tenancy Branch