



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ET

### Introduction

This hearing dealt with the landlord's application pursuant to section 56 of the *Residential Tenancy Act* (the *Act*) for an early end to this tenancy and an Order of Possession.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to cross-examine one another. The landlord gave undisputed sworn testimony that she provided a 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) to the tenants on December 23, 2012. The landlord testified that she posted a copy of her dispute resolution hearing package on the tenants' door on February 1, 2013. The female tenant (the mother of the male tenant) testified that she received the landlords' dispute resolution hearing package posted on the tenants' door on February 1, 2013. However, she said that she was uncertain as to whether her son was aware of the landlord's application because he was incarcerated at the time and will not be released until February 15, 2013. The female tenant (the tenant) also testified that she has received the landlord's written and photographic evidence. In accordance with section 89(2)(d) of the *Act*, I am satisfied that the landlord has served her dispute resolution hearing package to the tenants in accordance with the *Act*.

### Issues(s) to be Decided

Is the landlord entitled to an early end to this tenancy and an Order of Possession?

### Background and Evidence

This periodic tenancy for one rental unit in the landlord's four-unit rental property commenced on or about April 15, 2008. Monthly rent is currently set at \$650.00, payable in advance on the first of each month. The landlord continues to hold the tenants' \$325.00 security deposit paid on April 15, 2008.

At the hearing, the parties confirmed that the landlord's 1 Month Notice requested an end to this tenancy by January 31, 2013. The parties present agreed that the tenants' application to cancel the 1 Month Notice was allowed on January 28, 2013 for the sole reason that the Arbitrator was not provided with a copy of the 1 Month Notice.

The landlord applied for an early end to this tenancy after a January 31, 2013 incident in which the landlord maintained that the male tenant was brandishing an axe. The landlord's oral and written evidence asserted that there had been multiple police visits to the rental property as a result of the male tenant's actions. She provided photographs to demonstrate that the male tenant had caused considerable damage to the property, some of which was caused when the male tenant used an axe to knock holes in walls and doors. The female tenant testified that the male tenant was incarcerated as a result of the axe-related incident of January 31, 2013. The landlord provided written statements from other tenants in the building who expressed their fear of the male tenant's behaviours. One of these tenants participated in the hearing and gave sworn testimony that the male tenant had taken an axe to another tenant's door. She said that Victims Services and the police recognize that the tenants have good reason to be alarmed and are both going to be involved when the male tenant is released from the correctional facility.

The female tenant did not dispute the testimony provided by the landlord or the statements entered into written evidence by other tenants in this building. She testified that she has alternate accommodations arranged as of February 13, 2013, and will be vacating the premises at that time. The landlord said that she would be satisfied with the issuance of an Order of Possession to take effect on February 13, 2013.

The female tenant asked that any Order of Possession to be issued be delayed until the end of February 2013, in order to give her son an opportunity to remove his belongings from the rental unit after he is released from imprisonment. The landlord rejected this request as she and other tenants in this building are very worried about any continuation of this tenancy for the male tenant.

### Analysis

Section 56 of the *Act* allows a landlord to make an application to end a tenancy early without service of a Notice to End Tenancy when it would be unreasonable and unfair to both the landlord and the other occupants of the residential property to wait for a notice to end tenancy for cause to take effect. This section of the *Act* allows me to order an early end to a tenancy and issue an Order of Possession if the tenant has done any of the following:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;*
- *seriously jeopardized the health or safety or a lawful right or interests of the landlord or another occupant.*
- *put the landlord's property at significant risk;*

- *engaged in illegal activity that has caused or is likely to cause damage to the landlord's property;*
- *engaged in illegal activity that 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;*
- *engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;*
- *caused extraordinary damage to the residential property, and*

*it would be unreasonable, or unfair to the landlord, the tenant or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 [landlord's notice: cause] or 57.41 [notice to end tenancy: tenant's needs] to take effect...*

Based on the oral, written and photographic evidence before me, I find that there are sufficient grounds to end this tenancy early for most if not all of the seven grounds outlined above. Any one of these grounds would be sufficient to end this tenancy early if I were also to find that it would be unreasonable or unfair to the landlord or the other tenants to wait for a 1 Month Notice to take effect. In particular, I find the incident involving an axe and leading to the male tenant's incarceration has raised the male tenant's conduct to a new level that is frightening to the landlord and her other tenants. I find that the landlord has demonstrated that it would be unreasonable and unfair to the landlord and the other tenants in this rental property to wait for the landlord to obtain an end to this tenancy for cause.

### Conclusion

I allow the landlord's application to end this tenancy early and grant the landlord an Order of Possession to take effect by 1:00 p.m. on February 13, 2013. The landlord is provided with these Orders in the above terms and the tenant(s) must be served with an **Original Order** as soon as possible. This Order may be filed in the Supreme Court 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: February 08, 2013



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D. Bryant, Arbitrator  
Residential Tenancy Branch



# Residential Tenancy Branch

RTB-136

## Now that you have your decision...

All decisions are binding and both landlord and tenant are required to comply.

The RTB website ([www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)) has information about:

- How and when to enforce an order of possession:  
Fact Sheet RTB-103: *Landlord: Enforcing an Order of Possession*
- How and when to enforce a monetary order:  
Fact Sheet RTB-108: *Enforcing a Monetary Order*
- How and when to have a decision or order corrected:  
Fact Sheet RTB-111: *Correction of a Decision or Order*
- How and when to have a decision or order clarified:  
Fact Sheet RTB-141: *Clarification of a Decision or Order*
- How and when to apply for the review of a decision:  
Fact Sheet RTB-100: *Review Consideration of a Decision or Order*  
**(Please Note: Legislated deadlines apply)**

To personally speak with Residential Tenancy Branch (RTB) staff or listen to our 24 Hour Recorded Information Line, please call:

- Toll-free: 1-800-665-8779
- Lower Mainland: 604-660-1020
- Victoria: 250-387-1602

Contact any Service BC Centre or visit the RTB office nearest you. For current information on locations and office hours, visit the RTB web site at [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)