



# 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 an Application for Dispute Resolution filed on May 2, 2012, by the Landlords to obtain an Order to end this tenancy early and be granted an Order of Possession?

The Landlord submitted documentary evidence which indicates the Tenant was served with copies of the Landlord's application for dispute resolution, Notice of dispute resolution hearing, and the Landlord's evidence, on May 2nd, 2013, by registered mail. Canada Post receipts were provided in the Landlord's evidence. Based on the submissions of the Landlord I find the Tenant is deemed served notice of this proceeding as of May 7, 2013, five days after it was mailed, in accordance with section 90 of the Act; therefore I proceeded in the Tenant's absence.

### Issue(s) to be Decided

Should the Landlord be granted an Order to end this tenancy early and be granted an Order of Possession?

### Background and Evidence

The Landlord submitted documentary evidence which included, among other things, copies of: 66 photos of the rental unit which were taken May 1, 2013; their written submission; a letter and minutes from the strata council meeting.

The Landlords stated that the Tenant began occupying the rental unit in October 2012, under a verbal tenancy agreement, and began paying \$570.00 each month for rent.

The Landlord affirmed that after receiving a report of a home invasion from the Tenant on April 11, 2013, they received a call from the Police on April 12, 2013 to advise of the home invasion investigation at the unit. The Landlords met the police at the unit on April

12, 2013, and were not allowed entry into the unit. There were several investigations going on at the unit relating to the home invasion, a major crime case and the finger print IDENT unit.

The Landlords testified that the police told them they were conducting ongoing investigations and could not speak to the nature of those investigations. The police stayed at the unit for four days and requested the Landlords re-secure the unit by replacing the lock.

The Landlords stated that they could not see the extent of the damage inside the rental unit as the police prevented them from accessing the unit. During this stressful time they were also dealing with the male Landlord's pending heart surgery that took place on April 15, 2013. When they attended the unit on April 17, 2013, they found the Tenant inside the rental unit with a male person. The Tenant advised the Landlords she would be moved out of the rental unit by the end of the month and they agreed to meet the Tenant at the unit on May 1, 2013, at 9:00 a.m.

On April 29, 2013 they received a telephone call from the police and were advised that charges were laid relating to the home invasion. At that time the police informed them that they had knowledge of the male person who was residing in the unit with the Tenant and they cautioned the Landlords not to attend the rental unit without police escort. On April 30, 2013, they received another call from the police to advise that a major crime investigation was still ongoing regarding persons who had been seen at or occupying the rental unit.

They attended the rental unit on May 1, 2013 at 9:00 a.m. as scheduled, with police escort, but the Tenant denied them access. The police informed the Tenant they had to allow the inspection so they were granted access and saw for the first time the extent of the damage caused to the property. They took the photos which were provided into evidence and were told by the Tenant that she was not going to move out and she was not going to pay rent.

On May 1, 2013, they found the unit severely damaged with numerous holes in the walls, spackle spread all over; writing on the walls; debris inside, cigarette butts put out on counter tops; and with the external patio filled with debris and defaced with unsightly graffiti.

There have been complaints that the Tenant is leaving the windows and doors propped open so that people can access the building at will. Also, guests are buzzing in and coming through the patio into the unit at all hours of the day and night.

They have been cautioned by the police that the people associated with the Tenant are dangerous and that they cannot attend the unit without an escort. They are very concerned that the other occupants in the building are significantly at risk. They are also concerned that the condition of their property will continue to be damaged either in retaliation or from the continued destructive behaviour because the Tenant has now become defiant and is refusing to leave.

### Analysis

Given the evidence before me, in the absence of any evidence from the Tenant who did not appear despite being properly served with notice of this proceeding, I accept the version of events as discussed by the Landlords and corroborated by their evidence.

Section 56 of the *Act* allows a tenancy to be ended early without waiting for the effective date of a one month Notice to End Tenancy if there is evidence that the tenants have breached their obligations under the tenancy agreement or *Act* and it would be unreasonable or unfair to wait for the effective date of a one month Notice to End Tenancy.

Based on the foregoing, I find that the Tenant has significantly breached the tenancy by allowing unsupervised access for guests; by allowing damage to be caused to the rental unit; and by propping doors open, which puts other occupants' safety at risk. Based on these conclusions I find that the Landlords have established sufficient cause to end this tenancy.

Next I have considered whether it would be unreasonable or unfair to the Landlords to wait for a one month Notice to End Tenancy or a 10 Day Notice to End Tenancy to take effect. I have accepted that the Landlords did not know the extent of damage caused to the rental unit until they gained entry on May 1, 2013; that the Tenant's behaviour has escalated where she now refuses to leave or pay rent; and the Tenant has allowed a male person to occupy the rental unit without the Landlords' permission. Based on these conclusions I find it would be unreasonable to wait for a one month Notice to End Tenancy or a 10 Day Notice to End Tenancy to take effect. The relationship is deteriorating and escalating with the possibility for the Landlords' to suffer further loss or damage. I further find that this situation has placed other occupants' safety at significant risk. Therefore, I grant the Landlords' application to end this tenancy early and obtain an Order of Possession.

Conclusion

I HEREBY GRANT the Landlords an Order of Possession effective **May 9, 2013 at 5:00 p.m.** after it is served upon the Tenant. This Order is legally binding and may be filed with 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: May 09, 2013

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Residential Tenancy Branch