



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Langley Lions Senior Citizens Housing Society  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ET

### Introduction

This hearing was convened by way of conference call in response to the landlord's application for an Order of Possession on an Early End to Tenancy.

The tenant, an advocate for the tenant, and two agents for the landlord attended the conference call hearing. The parties gave sworn testimony and were given the opportunity to cross examine each other on their evidence. The landlord provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The tenant provided late documentary evidence for this hearing which has not been considered. The tenant confirmed receipt of evidence.

### Issue(s) to be Decided

Are the landlords entitled to end the tenancy early and gain an Order of Possession on the basis of this application pursuant to section 56 of the *Act*.

### Background and Evidence

The parties agree that this tenancy started on March 01, 2007. The tenants unit is located in a senior citizen building.

The landlord's agent JD testifies that there was a previous hearing held on August 27, 2013 after the tenant had filed an application to cancel a One Month Notice to End Tenancy for cause. At that hearing an agreement was reached to allow the tenant to continue to live in his rental unit. The tenant agreed to allow the landlord to do monthly

inspections of his unit with proper notice and allowed the landlord to take photographs during the inspection. The tenant also agreed to keep his unit in a clean and sanitary condition; to place a large can filled with sand on the balcony for the purpose of disposing of his used cigarettes; and to remove the carpet from the balcony floor and towels from the rails.

The landlord's agent JD testifies that they posted a notice to carry out an inspection as per that agreement in the afternoon of September 23, 2013. When the inspection was due to take place, the landlord's agents' saw the tenant in a common area of the building and the landlord's agent PS reminded the tenant about the inspection. The tenant left and went home. When the landlord's agents' arrived for the inspection the door was ajar so the landlord's agents knocked and the tenant told them to come in.

The landlord's agent JD testifies that she commented that the unit was in a better condition than previously and asked the tenant if he used his same cleaner. The tenant responded civilly to this. The landlord's agent JD testifies that she proceeded to look at the balcony while the other agent PS took pictures on her phone. At the time the tenant was sitting in a chair. The landlord's agent JD testifies that after viewing the balcony, which still had a bamboo on the floor and walls and a plastic bucket full of discarded cigarette packets and butts, the landlord's agent told the tenant that the tenant had not complied with the agreement from the previous hearing.

The landlord's agent JD testifies that the tenant started to get rude and started swearing JD asked the other agent PS to video this. At that time the landlord's agent JD testifies that the tenant kicked out at the other agents face and said that they could not take photos. The landlord's agent testifies that she asked the tenant "did he kick at her" (PS) and PS stated "at the camera". The landlord's agent JD testifies that she said she would call the police. At that point the tenant got up out of his chair and came out to the deck area. The tenant was swearing and acting aggressively, loaming over JD and swearing in her face. The landlord's agent JD testifies that the tenant grabbed JD's arm and spun her around shoving her into the unit and into the other agent. The tenant then pushed

both agents out of the door. The landlord's agent JD testifies that she kept saying to call the police as the other agent had her cell phone on recording this confrontation.

The landlord's agent JD testifies that the next day when she got up she noticed pain in her left leg where the tenant had spun her. This leg was sore for a week. The landlord's agent testifies that both of the landlord's agents' have filed a claim through their place of work for compensation as they should not be subjected to this sort of treatment. The landlord's agent JD testifies that this tenant does have a history of aggressive behaviour and that is why no members of staff go to his unit alone.

The landlord's agent PS testifies that the incident happened just as described by the other agent.

The landlord's agent JD testifies that the police were called and a file number has been submitted in evidence. The landlord is not aware of what has occurred with the police yet but JD testifies that she has been interviewed by the police. The landlord's agent testifies that this tenancy can no longer continue because of what the tenant did to the landlord's agents was not acceptable. The landlord's agent testifies that after the previous incident, when a fire occurred on the tenant's deck due to a cigarette lighter exploding when the tenant was not at home, the tenant was very aggressive towards JD at that time accusing JD of tampering with his medication.

The landlord's agent JD testifies that they had served the tenant with a One Month Notice to End Tenancy after this incident as they do not want the tenant near other employees'. The tenant was warned by the police not to come to the front desk but the tenant has been there twice since this warning. The landlord seeks an early end to the tenancy based on this attempted assault of PS and the physical and verbal assault of JD.

The tenant's advocate makes a statement concerning a letter provided by the tenant's doctor. The tenant's advocate states that the tenant's doctor has written to say he has

been the tenant's doctor for 16 years and the tenant has never been violent since the doctor has known him. The tenant suffers from back pain and complications and there is a fear of death of the tenant if the tenant does not have staple long term accommodation.

The tenant's advocate provides a statement on behalf of the tenant. The tenant's advocate states that the tenant told the advocate about the incident and stated that the tenant was in the common area when he saw PS. PS informed the tenant about the inspection so the tenant returned to his unit and sat in his chair in order to stay out of the way while the landlord's agents carried out the inspection. When they came into the tenant's unit they started to take pictures. The tenant stated that the videotaping was not necessary and the landlord's agent PS had gone into the bathroom to take pictures. The other agent JD started to shout aggressively at the tenant about water guns. The tenant became disorientated and JD was standing over the tenant. PS came back into the room taking pictures and the tenant asked them not to take pictures of him directly. The tenant started to stand up but stumbled due to his disability and stumbled into JD.

The tenant's advocate states that the tenant was spoken to by the police but has not been charged with anything. The tenant testifies that the police told him that there was no credibility to the charges and that the police just told the tenant to stay away from the landlords for a week. Someone came later and pushed a video into the tenant's chest and as they did not take his rent the tenant had to go and pay it to the landlord's agents. The tenant's advocate states that the tenant was afraid to go to the landlord's office area the tenant felt he would be shouted at again.

At this point in the hearing the video provided by the landlord was played in evidence as the tenant's advocate had not been provided a copy of the video by the tenant.

The landlord's agent JD testifies that the video shows the tenant getting out of his chair and shows that the other agent was not in the bathroom. It also shows that the tenant

came out onto the balcony and grabbed JD. The audio of this video also depicts the landlord's agents' conversations and the tenant swearing at the landlord's agents.

The landlord's agent JD asks the tenant if the tenant can remember coming out onto the balcony. The tenant responds and states "no, I did not grab at you, I stumbled."

The tenant and the tenants advocate declines to cross examine the landlord's agents.

### Analysis

An early end to a tenancy under s. 56(2) of the *Residential Tenancy Act (Act)* is only given in extraordinary circumstances and only when the applicant can show that the situation is so extreme that it would not be reasonable to require the normal one Month Notice to End Tenancy given under section 47 of the *Act*. An early end to tenancy is granted and an Order of Possession for the rental unit is given if the tenant or persons 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;
- (iv) engaged in illegal activity that
  - (A) has caused or is likely to cause damage to the landlord's property,
  - (B) 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, or
  - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- (v) caused extraordinary damage to the residential property, and

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

(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.

I have considered the evidence before me including the documentary evidence, the verbal testimony and the video CD provided by the landlord. I find the landlord's agents' version of events concerning the incident that occurred on September 23, 2013 matches the video evidence submitted. This evidence is compelling as it depicts the events that occurred between the tenant and the landlord's agents. The video shows the tenant sitting in a chair and then on the balcony. The audio of this video also depicts the aggressive language from the tenant and shows that the landlord's agents were firm but did not shout at the tenant and did not show the landlord's agent standing over the tenant. The video does show that the tenant was pushing the landlord's agent from the balcony and both agents out of the door. The landlord's agent is heard asking for the police to be called. Although the video does not clearly show the tenant kicking out at one of the agents; it is clearly heard when one of the agents is asking the tenant if he did kick at the other agent and the other agent responds at the camera.

I find the level of aggression shown towards the landlord's agents to be unacceptable. The fowl language and pushing, while it may not be grounds for a charge of physical or verbal assault, is certainly sufficient to show that the tenant has significantly interfered with or unreasonably disturbed the landlord of the residential property and has seriously jeopardized the health or safety or a lawful right or interest of the landlord. A also find the tenant has prevented the landlord's agents from carrying out a lawful right or interest in conducting these monthly inspections. The tenant agreed that monthly inspections could take place and agreed that these could be photographed. The tenant also agreed to remove the carpet from the balcony floor and use a can filled with sand for his discarded cigarettes; The evidence provide clearly shows that the tenant did not comply

with the previous agreement. While the landlord's agents are carrying out their lawful right to inspect the tenant's unit the landlord's agents should not be subjected to any form of aggression that make them fearful to carry out their normal duties and rights as agents of the landlord.

Consequently, I find the tenants version of events to be less than forthright and I am satisfied from the evidence before me, that it would be unreasonable and unfair for the landlord to wait for a One Month Notice to End Tenancy under section 47 of the *Act* to take effect as in doing so it may prevent the landlords from carrying out their duties in a manner free from aggression.

#### Conclusion

The landlords' application for an Order to End Tenancy Early is granted. An Order of Possession has been issued to the landlord to take effect **two days** after service on the tenant. A copy of this Order must be served on the tenant. The Order of possession is enforceable through the Supreme Court of British Columbia.

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 11, 2013

---

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)