



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

ET and FF

### Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has applied to end the tenancy early, for an Order of Possession, and to recover the fee for filing this Application for Dispute Resolution.

The male Landlord stated that he posted copies of the Application for Dispute Resolution and Notice of Hearing at the rental unit on August 16, 2013. In the absence of evidence to the contrary, I accept that these documents were served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

### Issue(s) to be Decided

Is the Landlord entitled to end this tenancy early and to an Order of Possession on the basis that the tenancy is ending early, pursuant to section 56(1) of the *Act*?

### Background and Evidence

The male Landlord stated that on August 05, 2013 he went to the rental unit to discuss unpaid rent with the Tenant; that the Tenant met him outside the rental unit; that the Tenant became very angry; that the Tenant picked up a piece of metal railing and swung it at the male Landlord; that the Landlord picked up a piece of metal for the purposes of defending himself; that the Landlord was able to avoid being hit by circling a parked vehicle; that the Tenant went into the rental unit and emerged with a golf club; that the Tenant swung the golf club at the male Landlord and broke it on the side of the residential complex; that the Tenant picked up a second golf club but did not attempt to strike the Landlord with it; that the Landlord called the police for assistance; that the police attended the rental unit; and that charges of assault were not pursued.

The female Landlord, who is the male Landlord's mother, stated that she witnessed the aforementioned altercation.

### Analysis

Section 56(1) of the *Act* stipulates that a landlord can apply for an order that ends the tenancy on a date that is earlier than the tenancy would end if a notice to end tenancy were given under section 47 of the *Act* and he may apply for an Order of Possession for the rental unit. Section 56(2)(a) of the *Act* authorizes me to end the tenancy early and to grant an Order of Possession in any of the following circumstances:

- The tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property
- The tenant or a person permitted on the residential property by the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant
- The tenant or a person permitted on the residential property by the tenant has put the landlord's property at significant risk
- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property
- The tenant or a person permitted on the residential property by the tenant has 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
- The tenant or a person permitted on the residential property by the tenant has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord
- The tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to the residential property.

Section 56(2)(b) of the *Act* authorizes me to grant an Order of Possession in these circumstances only if 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 to take effect.

After considering all of the evidence presented by the Landlord and in the absence of evidence to the contrary, I am satisfied that on August 05, 2013 the Tenant seriously jeopardized the safety of the male Landlord and that he significantly interfered with the male Landlord. Although the Landlord was not injured in this incident, the potential for injury was significant and the incident would certainly cause the average person to be significantly disturbed. Given the seriousness of this altercation, I find it would be unreasonable for this tenancy to continue until a notice to end the tenancy under section 47 would take effect.

I find that the Landlord has established a monetary claim, in the amount of \$50.00, in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution.

Conclusion

I grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenant. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I grant the Landlord a monetary Order, in the amount of \$50.00, in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced by that Court.

Dated: August 20, 2013

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Residential Tenancy Branch

