



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET

### Introduction

This hearing was scheduled in response to the landlords' application for Dispute Resolution, in which the landlords have applied for an Order of Possession on an Early End to Tenancy.

The landlords state that the application and Notice of hearing was served to the tenant by posting it to the tenant's door on October 12, 2013. The landlords testify that they also served evidence to the tenant by posting that on the tenant's door. Photographic evidence of this service has been provided by the landlords. The tenant is deemed to have been served the hearing documents three days after they were posted to the door pursuant to s. 90 of the Residential Tenancy Act (Act).

The landlords appeared, gave sworn testimony, were provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*.

All of the testimony and documentary evidence was carefully considered.

### Issue(s) to be Decided

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

### Background and Evidence

The landlord SR testifies that prior to purchasing this house a year ago the tenant occupied the house for the last 13 years and a subtenant rented the basement suite. The landlord notified the seller that they wanted to keep the subtenant in the basement suite but required vacant possession of the main house. The purchase contract provided in evidence states that the tenant was to be provided with Notice to End Tenancy.

The landlord testifies that instead of moving out this tenant got the basement tenant to move out and the tenant then moved into the basement suite without the landlords' permission. The tenant left some of his belongings in the main part of the house and the garage. The landlord testifies that the tenant not provide a garage opener to the landlords, a key to the basement suite, or the mailbox key.

The landlord testifies that this tenant does not have a tenancy agreement with the landlords. However, the landlords let the tenant stay in the basement unit temporally until the tenant could move somewhere else. The laundry facilities are in the landlords' part of the house and the tenant has been entering the landlords' home through a connecting door.

The landlord testifies that he has to go to work from 3.00 p.m. to 11.00 p.m. and does not return home until midnight. When the landlord is gone the tenant enters the landlords' home to do his laundry. The landlord testifies that his wife has a hearing disability and they have two small children.

The landlord NR testifies that when her husband went to work the tenant entered their home and has misbehaved towards the landlord. When asked what the landlord means by misbehaved the landlord testifies that the tenant has touched her bottom twice and has been inappropriate towards the landlord by telling the landlord that he likes her and wants to deal with her. When the landlord refused his advances the tenant said the

landlord's husband was mentally ill. The landlord testifies that the tenant has given sweets to their children which has made their children sick and he talks dirty to the landlord in front of the children when her husband is not at home.

Due to the tenant's behavior the landlords feel threatened and intimidated by the tenant and so the landlords prevented the tenant accessing their home by putting a lock on the connecting door. The tenant became angry and aggressive and said the lock has to be removed. When the landlords refused to do this the tenant broke the lock and has repeatedly broken it since that time. The landlord testifies that they have called the police many times but the police say it is a matter for the RTB.

The landlord NR testifies that when she goes to bed at night she has to take off her hearing aid. On one occasion the landlord had to get up in the night to warm her son's milk and when the landlord entered the kitchen she was shocked and frightened to see the tenant standing in their kitchen. The landlord testifies that as she had removed her hearing aid she had not heard the tenant break open the connecting door again. The landlord testifies that the tenant pushed the landlord and ran into his own suite. The landlord is fearful with her husband working at night that this tenant can enter their home and walk around whenever he chooses. The landlord testifies that the tenant has told the landlords that if the landlords do anything then the tenant will make up false stories about the landlords' as the police will not do anything. The landlord testifies that since then the landlord has to have her Aunt come and stay with her at night so her Aunt can hear if the tenant breaks into the landlords home again.

The landlord SR testifies that the tenant has caused damage to their property. The tenant has backed his car into the new garage door leaving it dented; the tenant has also backed into the lawnmower in the garage causing it to make holes in the garage walls. The tenant has roughly filled these but nothing else. The tenant has broken the glass in the front door and damaged the door. The interior connecting door has been damaged where the tenant keeps breaking the door locks to enter the landlords' home. The landlords have provided photographic evidence of this damage.

The landlord testifies that they have also received a threatening letter from the tenant where the tenant wants the landlords to agree to things that are not in the landlords' best interests. A copy of this letter has been provided in evidence. The landlord testifies that the tenant has also made some alterations in his suite to the flooring, the wiring and the plumbing without the landlords' permission. The tenant does yard work without the landlords' permission. The landlords have asked the tenant to stop but the tenant keeps cutting the landlords' shrubs down and then leaves the debris for the landlords to remove.

The landlords call their witness JT. The witness testifies that he was the realtor who sold the house to the landlords a year ago. The landlords contacted the witness because they wanted to sell the house again due to the behaviour of the tenant. The landlords told the witness that the tenant had been threatening them. The witness testifies that he told the landlords to give the tenant notice to end the tenancy again but when they did that the tenant ripped it up and started to laugh at the landlords and witness. The witness testifies that the contract for the sale states that the tenant was given notice to end the tenancy by the sellers on completion however the tenant simply removed the subtenant in the basement and moved in there himself without permission. The tenant was asked to remove his belongings from the landlords' home but just says he is working on it. The witness testifies that the tenant is threatening and intimidating and the witness has seen the tenant looking through the landlords' windows. The witness testifies that he has seen the damage caused by the tenant to the garage doors and the connecting door.

The landlords call their witness GA. This witness testifies that she lives next door to the landlords and has lived there for 10 years. The tenant has always been trouble to the witness over the years and the police have had to be called many times. The witness testifies that she is aware that the tenant has been brothering the landlords. The witness testifies that she has seen the tenants car one inch from the garage doors; the tenant has previously damaged the doors but still parks his car so close.

The landlords call their witness NB. This witness testifies that she is the Aunt of the tenants. The witness testifies that she has had to stay at the house while her nephew works as her niece cannot hear if the tenant breaks into their home. The witness testifies that the tenant has said inappropriate things to her such as calling her a "Hottie". The witness testifies that she has seen the tenant going around the outside of the house peering in the windows. This makes them feel very unsafe. The witness testifies that while she has been staying at the home she has heard banging noises at night where the tenant is trying to get into the landlords home. The witness testifies that this trouble with the tenant has had a big effect on the landlords' health. The witness testifies that the tenant also wears inappropriate clothing in the yard. He has been seen wearing a low tong as he walks in the yard. This is not appropriate wear in a house where there are females and young children. The witness testifies that she was at the house when the landline was disconnected. They suspected the tenant did this, so the witness called the police on her cell phone. This has added to the landlords worries as the female tenant would not be able to call the police if she was home alone.

The landlords call their witness NK. This witness testifies that he had stayed at the landlords' home for a month and noticed that the tenant was overbearing and intimidating. The tenant would knock on the windows and give sweets to the landlords' children even though he was asked not to as it made the children sick. On one occasion he gave the landlords young daughter some gum but it turned out this was nicotine gum. The tenant later told them that this was a mistake. On another occasion the tenant has called the children to his unit and when the children came back the young girl was crying and holding her ear. When the landlords looked at her ear it was all red as if someone had twisted her ear. The landlords' children are too young to be able to explain what happened. The witness testifies that the tenant entered the landlords' home to do some laundry and should have then returned to his own suite. However, the witness saw the tenant in the landlords' home as if it was his own home and the tenant was told to go back to his own unit.

The landlords call their witness PS. This witness testifies that she is a neighbour of the landlords. The witness testifies that she has not seen the tenant do anything to the landlords or their children but the tenant does drive without care and attention in the close where other children are playing. On one occasion the tenant nearly reversed his car into the witness's daughter who is in a wheelchair. On another occasion he came to the witness home swearing and threatening because their mail had been placed in his mailbox. Another time the tenant was using shears to cut shrubs and handed these to a seven year old child to use. The witness testifies that the tenant is not someone who should be around children.

### Analysis

I have carefully considered all the evidence before me, including the sworn testimony of the landlords and witnesses. When an Early End to Tenancy is granted, instead of receiving a One Month Notice, which a tenant would receive when being evicted for cause, the tenant receives virtually no notice. An early end to tenancy is an extreme remedy under the *Act*, when there are provisions in the *Act* providing the Landlord with opportunity to evict the tenant for cause and providing the tenant with a specific notice period.

Section 56(2) of the *Act* authorizes me to end a tenancy earlier than the tenancy would end if Notice to End Tenancy were given under section 47 of the *Act* and grant an Order of Possession for the rental unit 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.

As the tenant has not appeared at the hearing today to dispute the landlords' evidence and testimony I find that the landlords have provided sufficient evidence, pursuant to section 56 of the *Act*, to show that the tenant has significantly interfered with or unreasonable disturbed the landlords. Landlords have a right to feel safe in their own home without a tenant entering and wondering around their home. Landlords are also entitled to live in their own home free from advances by a tenant who makes the landlord uncomfortable, intimidated or feel unsafe. In particular these landlords have issues with the tenant breaking open the connecting door between their units when they have told the tenant he is not welcome to do so. This has caused damage to the interior door and continues to cause damage each time the landlords attempt to lock the tenant out. If there are shared laundry facilities in the landlords home then the tenant cannot just enter whenever he chooses to use these laundry facilities but must either have set times to do laundry or ask permission of the landlords to enter their home. The female tenant feels unsafe due to her disability and finding the tenant standing at night in the landlords' kitchen. This behaviour is unacceptable and has significantly disturbed the landlords. The landlords have provided sufficient evidence to show that the tenant has

seriously jeopardized the health or safety or a lawful right or interest of the landlord by breaking into their home without permission and with the continued behavior of peering in the landlords' windows, knocking on windows and general intimidation of the landlords. I have further concerns about the tenant's inappropriate behavior with his dress code and language and giving sweets and nicotine gum to young children without permission of their parents, the landlords. I have further concerns about the damage to the garage door. While these things alone may not be grounds to end the tenancy early it is a contributing factor in this overall decision.

Consequently, due to the undisputed testimony and documentary evidence listed above I am satisfied, that it would be unreasonable and unfair for the landlords to wait for a One Month Notice to End Tenancy under section 47 of the *Act* to take effect and allow the landlords application for an early end to the tenancy.

### 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 tenants. A copy of this Order must be served on the tenants. 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 23, 2013

---

Residential Tenancy Branch



