



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BRITISH COLUMBIA HOUSING MANAGEMENT COMMISSION  
and [tenant name suppressed to protect privacy]

## **DECISION**

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### Introduction

This hearing dealt with a landlord's application for an order ending the tenancy early and an Order of Possession pursuant to section 56 of the Act. The tenant did not appear at the hearing. The landlord testified that the hearing documents and the landlord's evidence were sent to the tenant at the rental unit on April 25, 2014 via registered mail. The landlord provided a copy of the registered mail receipt, including tracking number, as proof of service. The landlord's agent testified that she also placed a copy of the hearing package and evidence in the mail slot in the door of the rental unit on April 25, 2014.

Registered mail is one of the permissible methods of serving a respondent with an Application for Dispute Resolution. Section 90 of the Act deems a person to have received documents five days after mailing, even if the recipient refuses to accept or pick up the mail.

In light of the above, I found the tenant deemed to be served with the hearing documents five days after they were mailed on April 25, 2014 and I continued to hear from the landlord without the tenant present.

### Issue(s) to be Decided

Has the landlord established the tenancy should end early and the landlord provided an Order of Possession under section 56 of the Act?

### Background and Evidence

Starting September 1, 2010 the tenant and his mother entered into a co-tenancy agreement with respect to the townhouse style rental unit. Effective April 2013 the parties amended the tenancy agreement to remove the tenant's mother as a tenant and the tenant became the sole tenant for the unit.

On April 1, 2014 the landlord's building managers entered the rental unit in order to conduct an annual smoke detector inspection. The building managers not only found the smoke detector had been removed but that there was considerable damage to the unit. The building managers reported their observations to the property manager.

After serving a notice to enter the rental unit, the property manager, the building managers' supervisor, and a health services co-ordinator carried out an inspection of the rental unit on April 17, 2014.

Of utmost concern to the landlord is the risk of fire since the fire wall that separates the rental unit from adjacent units has been significantly breached by numerous holes smashed in the walls; evidence of a previous fire on the stove top, and removal of the smoke detector.

In addition to the above described damage, the landlord found large amounts of dog excrement on the floor of the rental unit, so much so, that an environment team will need to be called in to deal with its removal.

Other significant damage observed by the landlord includes:

- The stair rail has been smashed;
- A broken window that is boarded up;
- Most all of the walls and interior doors have holes smashed in them; and,
- The flooring has been saturated by urine.

The landlord provided a written submission along with photographs taken during the inspection of April 17, 2014; and, copies of other tenancy related documentation including the tenancy agreement.

The photographs provided by the landlord depict walls with numerous holes in the drywall; broken doors; scorch marks on the wall adjacent to the stove; garbage and feces strewn about the floor in most areas of the rental unit; a broken stair hand rail; a broken window that has been boarded up; among other things.

The landlord testified that rent for May 2014 was received and it has been accepted "for use and occupancy only".

### Analysis

Section 56(2) of the Act permits the Director, as delegated to an Arbitrator, to make an order to end the tenancy on a date that is earlier than the effective date on a 1 Month Notice to End Tenancy for Cause had one been issued and to provide the landlord with an Order of Possession. In order to grant an order to end the tenancy early I must be satisfied that:

- (a) the tenant or a person 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.

[my emphasis added]

The landlord bears the burden to prove the tenant, or a person permitted on the property by the tenant, has acted in such a way as to warrant an order to end the tenancy earlier than by way of a 1 Month Notice. The burden is high as this provision is intended to apply in the most severe circumstances.

Upon consideration of everything presented to me, including the landlord's undisputed submissions and photographic evidence, I find the landlord has satisfied me that the rental unit has been significantly damaged and that the damage caused by the tenant,

or persons permitted on the property by the tenant, has put the landlord's property and the health and safety of other occupants at significant risk.

Given the severity of the damage and the potential fire risk, I find it is unreasonable for the landlord to wait for a 1 Month Notice to take effect. Therefore, I grant the landlord's request for an order to end the tenancy early and Order of Possession under section 56 of the Act.

It is my order that this tenancy shall end two days after serving the tenant with the Order of Possession that accompanies the landlord's copy of this decision. The tenant is required to return possession of the rental unit to the landlord two days after service of the Order of Possession.

I award recovery of the filing fee to the landlord. As such, I provide the landlord with a Monetary Order in the sum of \$50.00 to serve and enforce upon the tenant.

#### Conclusion

I order this tenancy ended effective two days after service of the Order of Possession upon the tenant. The landlord has been provided an Order of Possession with this decision that requires the tenant to return peaceable, vacant possession of the rental unit to the landlord two days after the landlord serves him with the Order of Possession.

The landlord has been awarded recovery of the filing fee paid for this Application and has been provided a Monetary Order in the sum of \$50.00 to serve and enforce.

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 15, 2014

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Residential Tenancy Branch

