



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET, FF

### Introduction

This is the Landlords' Application for Dispute Resolution, seeking orders to end the tenancy early and be granted an order of possession.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

### Preliminary issues

At the outset of the hearing the tenants object to BD acting as agent for the landlord RD. However, RD attended the telephone conference hearing and confirmed BD is acting as her agent. RD remained on the telephone conference call for the balance of the hearing.

At the outset of the hearing the tenants objected that the landlords' witnesses, that filed witnesses statement are not listed in a schedule of parties and that they have the right to face their accusers. I explained to the tenants the witnesses are not considered a party to the application as defined in the Residential Tenancy Branch Rules of Procedures (the "rules"). Further, it was explained to the tenants that the rules allow a party to submit evidence, which include sworn or unsworn statements of the witnesses.

The parties confirmed receipt of all evidence submissions.

### Issues to be Decided

Is the landlord entitled to end tenancy early and obtain an order of possession?

### Background and Evidence

The tenancy agreement was signed on April 15, 2014. The tenants stated they have given written notice to end the tenancy with an effective date of November 30, 2014 and

do not agree to end the tenancy earlier.

The landlord BD testified that they seek to end the tenancy earlier as they believe the tenants are involved in drug activities and their associations with criminals have put the safety of various neighbors and the landlord's family at risk. Filed in evidence are witness statements. Filed in evidence are copies of court services online criminal records.

The landlord BD testified on October 6, 2014, the police attending to the landlords' residence which is directly above the tenants and asked they if they have witness any suspicious activities of the tenants and they informed the police of the numerous visits during the day and night and believe they are selling drugs.

The landlord BD testified that the police informed them that there was a recent break-in and asked them for a layout of the basement unit and a key to the rental unit. The landlord stated when they attempted to leave the premises to take the children to school they were told to stay inside their home for their safety while they attended to the tenants' residence.

The landlord BD testified when the police attended the tenants unit they arrested a female guest of the tenants and the other male guest fled. The police told them that these people are very dangerous and if the male is seen call 911. The landlord stated she has seen the male guest before as on September 28, 2014 she witnessed him jumping the back fence, which was very suspicious and going into the tenants' rental unit.

The landlord BD testified that since they filed their application on October 16, 2014, thing between the parties have even gotten worse as the tenants came to their door on October 16, 2014, making intimidating comments about their application. The landlord stated she called the police and when they attended they informed her that they would serve the evidence package on the tenants for her.

The landlord BD testified on October 18, 2014, the police served their evidence package on the tenants and again the tenants made intimidating threats, which were heard by their entire family including the children. The landlord stated that in one of the witness statement there a reference about how it was believed the tenant BJ shot-up his mother's house and the tenant BJ shouted at them "if I shot up my mom's house, you can't imagine what I could do to someone that I don't like" and the other tenant AW shouted "Ya and it is going to happen when you least expect it".

The landlord BD testified on October 18, 2014, the tenants also went to the home of one of the neighbors, who provided a witness statement in support of their application and tenant JB threw that statement in her face saying "here is your filth", and the tenant AW was video recording the event.

The landlord BD testified that their entire family no longer feels safe and the children will

not walk to or from school on their own as they are fearful of the tenants.

The tenants denied they are selling drugs, however, stated that they have lots of friend that drop by. The tenant JB stated that he and his co-tenant have had a criminal past, but no longer live that lifestyle. The tenants stated that they smoke marihuana and will go down to the street to smoke their drugs out of respect for the landlords' family.

The tenant JB testified that he made a really poor choice as he allowed two of his friends from his past come and stay with them and their friends were in the process of leaving when the police attended. The tenant stated his female guest was arrested and the male guest fled.

The tenant JB testified that although his mother's house was shot-up. It was not by him and he denied making any threats to the landlords. The tenant stated that he and his co-tenant did attend the residence of the landlords' witness and threw her statement at her because her statement was all lies and they recorded the event.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

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 tenant has 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.

In this case, the tenants admitted that they made a poor choice by permitted two people to reside in the rental property and that the tenants had a criminal past with these people. On October 6, 2014, the police attended the rental unit and arrested the female guest and the male guest fled. During this time the landlords and their family were not allowed to leave the residence as their safety was at risk.

I find the tenants have significantly breached the tenancy agreement and the *Act* by seriously jeopardized the health or safety or a lawful right or interest of the landlord.

I have also considered whether it would be unreasonable or unfair to the landlords to wait for a one month notice to end tenancy to take effect. On October 18, 2014, the tenants admitted they attended the residence of one of the landlord's witnesses. The tenant JB threw the witness statement in the witnesses face while the other tenant AW videotaped the event. I find that action of the tenants is one of intimidation and interferes with the witness's right to provided their testimony and impacts the landlords lawful right to prosecute there case. I find it would be unreasonable to wait for a one

month notice to end tenancy to take effect. I grant the landlords' application to end this tenancy early.

Therefore, I grant the landlords an order of possession **effective two (2) days** after it is served upon the tenants. This order may be filed with the Supreme Court of British Columbia and enforced as an order of that court.

As the landlords have been successful with their application the landlord are entitled to recover the cost of the filing fee from the tenants. I authorize the landlord to retain the amount of \$50.00 from the tenants' security deposit in full satisfaction of this award.

### Conclusion

The landlords' application to end this tenancy early pursuant to section 56 of the *Act* is granted. The landlords are granted an order of possession.

The landlords are granted monetary order to recover the cost of the filing fee from the tenants and may keep a portion of the security deposit in full satisfaction of this award.

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 30, 2014

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Residential Tenancy Branch

