



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ATIRA PROPERTY MANAGEMENT INC  
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 landlords application for an Order of Possession on an Early End to Tenancy.

The tenant and landlords agents (the landlord) attended the conference call hearing, 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 confirmed receipt of evidence. All evidence and testimony of the parties has been reviewed and are considered in this decision.

### Issue(s) to be Decided

Is the landlord 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 agreed that this month to month tenancy started on May 01, 2014. The tenant pays \$425.00 per month for a single occupancy room in this multi occupancy building.

The landlord testified that it was brought to their attention through complaints received from other tenants concerning the suspicion of drug trafficking. The landlord carried out some investigations and then contacted Vancouver Police Department who carried out an investigation that involving uniformed and undercover officers.

On November 22, 2014 a search warrant was executed by the Emergency Response Team on this tenant's room along with another tenant's room`. The building was evacuated by the Emergency Response Team who entered the building fully armed.

The landlord supplied email correspondence from a Constable with the Vancouver Police Department. The Officer confirmed that the search warrant resulted in retrieval of three cans of bear spray, two police style batons and one machete from the tenant's room. The police also recovered drugs from this tenant's room which consisted of 28 grams of crystal meth, seven grams of heroin, seven grams of crack cocaine, 20 grams of powdered cocaine and 43 grams of marijuana. Along with this the Officer confirmed that this tenant had two safes in his room and when they were opened with keys found on the tenant the Officers found approximately \$4,000.00 in cash.

The landlord testified that charges were brought against the tenant and the tenant has been released pending trial. The landlord testified that other tenants in the building feel extremely unsafe and the tenant's actions have jeopardized other tenants' peace and quiet enjoyment and have put the landlord's property at risk. Many of the tenants residing in this building suffer with drug addiction. The amounts of drugs found in the tenant's unit show that these drugs are not for personal use but are a trafficking situation. Other tenants are also in extreme jeopardy due to the weapons found in the tenant's unit.

The landlord applied to end the tenancy without the benefit of a notice ending tenancy as a result of the potential risk to other occupants of the building.

The tenant confirmed the police raid. The tenant testified that he was not home when the police kicked down his door and raided his room. The tenant agreed that he does have some disreputable friends who have stored their bags and belongings in the tenant's unit and have stayed at the tenant's unit. The items found in his room were not his and the tenant testified that his room is not secure and anyone can enter and leave things in his room.

The tenant testified that he was a drug user and held parties in his room with other drug users; however, since he was arrested the tenant states he is now a recovering addict and attends meetings.

The tenant testified that the bear spray found was used by the tenant as a precaution after he was sprayed himself during an attack. The other weapons are collectables, The police batons are not prohibited weapons and the machete was used when the tenant previously worked for a landscaping company.

The tenant testified that the \$4,000.00 found in a safe in his room is the tenant's savings as the tenant has occasional work unloading shipping containers.

The landlord testified that the tenant may be a recovering drug addict now but the amount and assortment of drugs found in his unit are not indicative for personal use. Regarding the tenant's safe; the keys were found on the tenant's person as the tenant was in the resident caretaker's office and the police searched the tenant while he was there. Regarding the money found in the tenant's safe; the landlord asked the tenant that when he initiated the tenancy he stated he was on welfare and welfare pay the tenant's rent; how did the tenant amass \$4,000.00 in savings when he only moved in on May 01, 2014. The tenant responded that it was savings from a previous job and held by a family member who returned it to the tenant.

Analysis

An early end to a tenancy under s. 56 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. I refer the parties to s. 56 of the Act which states:

**56** (1) *A landlord may make an application for dispute resolution to request an order*

*(a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [landlord's notice: cause], and*

*(b) granting the landlord an order of possession in respect of the rental unit.*

*(2) The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,*

*(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.*

*(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.*

The tenant does not dispute that the Emergency Response Team evacuated the building with armed police officers and that the police brought forward sufficient evidence for charges to be laid against the tenant. A search warrant was obtained based upon the evidence gathered. Whether or not the tenant was responsible for the items found in his unit or the suspected drug dealing traffic that was taking place; a tenant is responsible for the actions of any person allowed in their rental unit or for items left in the tenant's rental unit. It is then up to the Courts to decide if the tenant is guilty of an offence.

The tenant testified that he allows people to leave their bags and belongings in his unit and that he has disreputable friends who he allows to stay at his unit as guests. There was no evidence before me to suggest that uninvited individuals are responsible for the items found in the tenant's rental unit.

It is not for me to determine whether the actions of the tenant contravened the *Criminal Code* but to assess whether his behaviour has or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord,

or jeopardized a lawful right or interest of an occupant or the landlord.

I find, on the balance of probabilities, that the tenant or his guests have engaged in an 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. Entry of the police, with weapons, based on the cause established and the amount of drugs and weapons found in the tenant's unit along with a substantial amount of cash found in the unit give me cause for concern that, on a balance of probability, these relate to illegal activities being conducted from the tenant's unit which are likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property. I find therefore that upon consideration of the evidence before me that the landlord has cause to end the tenancy immediately.

Therefore, pursuant to section 56 of the act, I find the landlord is entitled to an Order of possession. In the circumstances I find it would be unreasonable and unfair to require the landlord to wait for a notice to end the tenancy under s. 47 of the *Act*.

### Conclusion

The landlord has been granted an Order of possession that is effective **two days after it is served upon the tenant**. This Order may be served on the tenant, If the tenant fails to comply with the Order, the Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Dated: December 15, 2014

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Residential Tenancy Branch

