



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET

### Introduction

This hearing convened as a result of a Landlords' Application for Dispute Resolution wherein the Landlords requested an early end to tenancy pursuant to section 56 of the *Residential Tenancy Act*.

The hearing was conducted via teleconference and was attended by the Landlords and their advocate, K.K. who gave affirmed testimony.

K.K. testified that she served the Tenants the Notice of Hearing and the Application for Dispute Resolution by registered mail on February 17, 2017.

*Residential Tenancy Policy Guideline, "12. Service Provisions"* provides that service cannot be avoided by refusing or failing to retrieve registered mail:

Where a document is served by registered mail, the refusal of the party to either accept or pick up the registered mail, does not override the deemed service provision. Where the registered mail is refused or deliberately not picked up, service continues to be deemed to have occurred on the fifth day after mailing.

Pursuant to section 90 of the *Residential Tenancy Act* documents served this way are deemed served five days later; accordingly, I find the Tenants were duly served as of February 22, 2017 and I proceeded with the hearing in their absence.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, not all details of the Landlords' submissions and or arguments are reproduced here; further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

1. Are the Landlords entitled to an early end of tenancy and an Order of Possession?

Background and Evidence

K.K. testified on behalf of the Landlords. She stated that she has been assisting the Landlords because of language issues as well as the stressful nature of the current circumstances. She confirmed that the Tenants rent a small two bedroom self-contained house and that the tenancy began in March of 2016. K.K. stated that monthly rent is payable in the amount of \$1,200.00., although she advised that the Tenants have not paid rent for March 2017.

K.K. advised that the reason for requesting an early end to tenancy is that the Tenants have been operating a methamphetamine lab in the rental unit which has rendered the rental unit uninhabitable. She stated that the Landlords became aware of this on February 7, 2017 when the Tenants were arrested by the police. Her information from the police was that one of the Tenants was released immediately and the other released later that day; she also stated that she was informed by the neighbours that the Tenants have been living in the rental unit since being released from custody. K.K. also stated that she was informed that guns were also found in the rental unit during the arrest. K.K. confirmed that although the Landlords have requested the police file, this will take some time to obtain.

K.K. testified that due to the presence of a methamphetamine lab, the City in which the rental unit is located, informed the Landlords that the rental unit is not safe to occupy. A letter dated February 8, 2017, from the City indicates that the rental unit must be fully remediated before it can be occupied again. K.K. stated that the City provided the Landlords with photos of the lab, but they elected not to provide those photos in evidence as she was not certain whether these photos would be used in the criminal proceeding and whether that might have a negative effect on those proceedings.

K.K. testified that the photos showed the following:

- guns a knife and a bow and arrow;
- the Notice which was posted to the door from the City notifying the occupants that the rental unit is "Unsafe to Occupy";
- drug paraphernalia;
- chemicals; and,

- a copy of the warrant, dated February 7, 2017, to search the property.

K.K. stated that the police advised the Landlords not to communicate directly with the Tenants due to the criminal charges and the presence of guns in the rental unit. K.K. stated that the police advised the Landlords that it would be unsafe to contact the Tenants in person.

### Analysis

After careful consideration of the Landlords undisputed evidence before me, in the absence of any evidence from the Tenants who did not appear despite being properly served with notice of this proceeding, 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 tenants have 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.

I find that the Tenants have significantly breached sections 32(2) of the *Act* by failing to maintain reasonable health, cleanliness and sanitary standards throughout the rental unit.

I further find that the Landlords have cause to end the tenancy pursuant to sections 47(1)(d)(ii), 47(1)(d)(iii), 47(1)(e)(i) and 47(1)(e)(iii) which read as follows

**47** (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

...

(d) the tenant or a person permitted on the residential property by the tenant has

...

(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or

(iii) put the landlord's property at significant risk;

(e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that

(i) has caused or is likely to cause damage to the landlord's property,

...

(iii) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;

I accept the Landlords' submissions that they were advised by the police not to have direct contact with the Tenants for safety reasons. I also accept the Landlords' evidence that the effect of the Tenants' methamphetamine lab has rendered the rental unit uninhabitable and that further occupation by the Tenants may present further risk to the property.

I also find that it would be unreasonable or unfair to the Landlords to wait for a one month Notice to End Tenancy to take effect. Therefore, I grant the Landlords' application to end this tenancy early.

### Conclusion

The Landlords have been granted an Order of Possession effective **immediately after service upon the Tenants**. In the event that the Tenants do not comply with this Order it may be filed British Columbia Supreme Court and enforced as an Order of that Court.

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: March 06, 2017

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Residential Tenancy Branch