



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ET

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- an early end to this tenancy and an order of possession pursuant to section 56.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties have confirmed receipt of the notice of hearing package and the submitted documentary evidence provided by the other party. I note that the landlord's 4<sup>th</sup> documentary evidence package was not submitted evidence, but was a copy of the landlord's submissions in writing. The tenant disputed that the landlord's 3<sup>rd</sup> documentary evidence package was submitted late and was not given an opportunity to properly respond. The landlord clarified that the tenant was served with the package. The tenant confirmed receipt of it, but was not aware that it was provided by the landlord or was to be used for the hearing. The admission of this portion of the landlord's evidence is reserved for submission by both parties during the hearing. I accept the evidence of both parties and find that each party was properly served as per sections 88 and 89 of the Act.

During the hearing the landlord's late 3<sup>rd</sup> documentary evidence was presented as it represents a letter from the tenant to the landlord regarding his submissions on the landlord's possible actions regarding the tenant's employment. The landlord reiterated as part of these submissions that the tenant was an employee who enjoyed a benefit of free accommodation as part of his employment as a park manager. The tenant did not dispute the landlord's submissions based upon this letter. Neither party raised any further issues regarding the landlord's 3<sup>rd</sup> documentary evidence package. As such, I accept the landlord's late 3<sup>rd</sup> documentary evidence.

### Issue(s) to be Decided

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

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on July 15, 2011 on a month-to-month basis as shown by the submitted copy of the signed tenancy agreement dated July 7, 2011. The monthly rent is \$950.00 payable on the 1<sup>st</sup> day of each month. A security deposit of \$475.00 and a pet damage deposit of \$200.00 were paid on July 15, 2011.

The landlord seeks an early end to the tenancy and an order of possession. The landlord claims that the tenant on July 30, 2017 was fired from his contracted position of managing the Mobile Home Park. The tenant was given 30 days' notice to end the tenancy as the mobile home (rental unit) is for the primary use of the park manager. The landlord stated that a new park manager is being sought, but cannot offer the accommodation as the tenant has refused to vacate the premises.

The tenant disputes the landlord's claims that his tenancy was subject to an employment agreement. The tenant claims that no written agreement exists.

The landlord has referred to the submitted copy of the signed tenancy agreement dated July 7, 2011 in section 42 which states in part,

In the event of employment termination, or a mutual agreement, the tenant agrees to vacate above said residence; according to Residential Tenancy Acts, to allow said residence to be maintained as the primary residence for the Resident Manager.

The tenant argues that this is a fraudulent document based solely on his direct testimony that the copy provided to the tenant and to the Residential Tenancy Branch is titled as "Tenant's Copy" which is fraudulent as section 42 was not completed at the time of the original signing. The tenant confirmed that his signature was on the submitted copy.

Both parties confirmed in their direct testimony that the landlord has terminated the employment of the tenant as a park manager on July 30, 2017.

Both parties confirmed that the landlord served the tenant with a 1 Month Notice to End Tenancy issued for Cause (the 1 Month Notice) dated July 30, 2017. The 1 Month Notice displays an effective end of tenancy date of August 31, 2017 and the stated reason is:

Tenant's rental unit/site is part of the tenant's employment as a caretaker, manager or superintendent of the property, the tenant's employment has ended and the landlord intends to rent or provide the rental unit/site to a new caretaker, manager or superintendent.

The landlord claims that subsequent to the 1 Month Notice being issued the tenant refused access to the landlord to inspect the rental premises following a flood for damage as per a notice of inspection with 24 hours' notice. The landlord claims that the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord and that it would be unreasonable or unfair to the landlord to wait for the outcome of the tenant's scheduled hearing regarding a dispute to cancel the 1 Month Notice. The landlord's three main grounds for the claim are:

1. Tenant's termination of park manager position on July 30, 2017
2. Tenant's significant interference with landlord's access to rental premises
3. Breach of Pet clause re: excessive amount of cats in unit, the tenant has refused access to allow the landlord to investigate issue.

The landlord has provided details that the complaints were received regarding the tenant's excessive number of cats in the rental unit and that the tenant has denied access to the landlord to inspect and investigate the complaints. The tenant argued that he is only denying access to the landlord, T.W., but would allow access to any other representative of the landlord. The tenant also argues that the landlord was aware of the cats prior to this dispute and chose to not take any action.

The landlord also relies upon a letter by another tenant who can confirm that the tenant has refused access to the landlord for the rental unit. The tenant argues that the other tenant's credibility is questionable, but has provided no details of evidence to support this claim.

### Analysis

In accordance with section 56 of the Act, in receipt of a landlord's application to end a tenancy early and obtain an order of possession, an arbitrator may grant the application where the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- seriously jeopardized the health and safety or a lawful right or interest of the landlord or another occupant;
- put the landlord's property in significant risk;
- engaged in illegal activity that:
  - has caused or is likely to cause damage to the landlord's property;
  - 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
  - has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- caused extraordinary damage to the residential property.

In addition to showing at least one of the above-noted causes, the landlord must also show why it would be unreasonable or unfair to the landlord to wait for a 1 Month Notice to take effect.

A one month notice to end tenancy for cause is the standard method of ending a tenancy for cause. An order to end tenancy early pursuant to section 56 requires that there be particular circumstances that lend urgency to the cause for ending the tenancy. That is the reason for the requirement that the landlord show it would be "unreasonable or unfair" to wait for a cause notice to take effect.

In this case, it is clear that both parties have confirmed that a 1 Month Notice to End Tenancy was served by the landlord to the tenant which is scheduled for a future hearing date.

Both parties have confirmed that following a flood the landlord served the tenant with a notice of inspection for the landlord to investigate possible flood damage. The tenant confirmed that a flood did take place. The tenant confirmed that access was denied to the landlord for this reason. This is confirmed with the copy of the letter dated August 16, 2017 in which the tenant argues the merits of the landlord's reason for inspection and that the landlord was informed that "Access Will Not be Granted for those reasons." I find that this denial of access are grounds for an early end to tenancy as the tenant has denied a lawful right of the landlord to inspect the rental unit for damage following a flood and that this has put the landlord's property at risk.

Conclusion

The landlord is granted an order of possession for an early end to the tenancy.

This order must be served upon the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia 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: October 5, 2017

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Residential Tenancy Branch