



# Dispute Resolution Services

Page: 1

## Residential Tenancy Branch Office of Housing and Construction Standards

A matter regarding BLOOM GROUP COMMUNITY SERVICES SOCIETY  
and [tenant name suppressed to protect privacy]

### **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.

The tenant did not attend this hearing. The corporate landlord was represented by its agent JF (the "landlord") who was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that he served the tenant with a 1 Month Notice to End Tenancy for Cause on September 29, 2017 by posting on the rental unit door. The landlord said that he served the tenant with the application for dispute resolution and evidence by registered mail on October 6, 2017. The landlord provided a Canada Post tracking number as evidence of service. Pursuant to sections 88, 89 and 90 of the *Act* I find that the tenant was deemed served with the 1 Month Notice, landlord's application and evidence.

#### Issue(s) to be Decided

Is the landlord entitled to an early end to this tenancy and an Order of Possession?

#### Background and Evidence

The landlord provided undisputed evidence as the tenant failed to attend. This periodic tenancy began in April, 2009. The rental unit is on an upper level of a multi-unit building in a busy area of the municipality. The tenant continues to reside in the rental unit.

The landlord gave evidence that on September 28, 2017 the tenant was hurling things from his 9<sup>th</sup> floor window at pedestrians below. These items included a claw hammer and large cans of paint. The landlord contacted police services who observed that there were knives set out in the rental unit by the window, ready to be thrown as well.

The landlord said that the tenant was throwing these items at pedestrians on the main sidewalk. While no one was directly struck by any of the items, a can of paint exploded upon landing and coated passersby with paint.

The landlord submitted into written evidence a copy of the incident report for the September 28, 2017 incident. In addition the landlord submitted a summary of past incidents showing a pattern of threats, vandalism and problem behaviour on the part of the tenant.

### Analysis

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an Order of Possession on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 for a landlord's notice for cause.

An application for an early end to tenancy is an exceptional measure taken only when a landlord can show that it would be unreasonable or unfair to the landlord or the other occupants to allow a tenancy to continue until a notice to end tenancy for cause can take effect or be considered by way of an application for dispute resolution.

In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that the tenant has done any of the following:

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

it would be unreasonable, or unfair to the landlord, the tenant 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.

I find that the landlord has provided sufficient evidence to show that the tenant has seriously jeopardized the safety of other occupants of the building and the landlord by throwing items from his rental unit window. Hurling objects such as hammers and cans of paint from the 9<sup>th</sup> floor is a serious risk to life and safety of the pedestrians below. I accept the landlord's evidence that the tenant was not simply dropping items but throwing them at individuals he saw on the ground below. I find the act to seriously jeopardize the safety and wellbeing of others.

I find that the landlord has shown through the incident reports that the September 28, 2017 incident was not an aberration but a particularly egregious example of a continuing pattern of dangerous behaviour on the part of the tenant. I accept the landlord's evidence that the tenant continues to engage in aggressive

behaviour and vandalizes the building. I accept the landlord's evidence that the tenant interferes with the rights of the other occupants by cutting their access to utilities. I find that under the circumstances it would be unreasonable to the other occupants of the rental building to wait for a notice to end the tenancy to take effect.

Accordingly, I issue an Order of Possession to the landlord pursuant to section 56 of the *Act*.

#### Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: November 30, 2017

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Residential Tenancy Branch