



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding M'AKOLA HOUSING SOCIETY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ET FFL

### Introduction

Pursuant to section 58 of the *Residential Tenancy Act*. (the *Act*), I was designated to hear this matter. This hearing dealt with the landlord's application for:

- an Early End of Tenancy and to Obtain an Order of Possession pursuant to section 56 of the *Act*;
- a return of the filing fee pursuant to section 72 of the *Act*.

Only the landlord's agent, A.T. (the "landlord") attended the hearing. The landlord was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord explained that the tenant was served with an application for an Early End of Tenancy pursuant to section 56 of the *Act* by way of Canada Post Registered Mail on December 21, 2017. The landlord provided a copy of the Canada Post tracking number to the hearing. Pursuant to sections 89 & 90 of the *Act*, the tenant is deemed to have been served with this document on December 26, 2017, five days after its posting.

### Issue(s) to be Decided

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

Can the landlord recover the filing fee from the tenant?

### Background and Evidence

The landlord explained that this tenancy began on August 1, 2017. Subsidized rent of \$546.00 per month was paid on the 1<sup>st</sup> of each month and a security deposit of \$300.00 paid at the outset of the tenancy continues to be held by the landlord.

The landlord said she was seeking an Order of Possession based on an early end of tenancy because of a serious stabbing that occurred in the rental unit. The landlord described an incident that took place on November 14, 2017 between the tenant and a guest. This incident led to the guest being stabbed by the tenant and suffering severe injuries which required the attendance of the police and paramedics. The landlord continued by explaining that because of this incident, it is believed the tenant has been incarcerated and her children were apprehended by social services. The landlord said numerous people in the complex have expressed a great amount of apprehension over the incident, and "4 or 5" tenants have contacted the landlord to state their uneasiness with the tenant residing in the rental building. The landlord said many children are present in the complex, and a few of them witnessed this violent episode.

### Analysis

Section 56 of the *Act* states, "A landlord may make an application for dispute resolution to request an order 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, and granting the landlord an order of possession in respect of the rental unit." This section continues by stating in section 56(2)(a)(iv)(B), "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 that a tenant has 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."

I find that the stabbing incident which took place on November 14, 2017 to be very serious and to have affected the quiet enjoyment, security, safety and physical well-being of the other occupants of the residential property. I find that the landlord has shown sufficient evidence exists demonstrating that the tenant engaged in an illegal activity which was witnessed by other residents of the residential property, and which led to numerous complaints by these residents.

I find that it would be unreasonable to wait for regular notice to take effect and that the landlord has shown that the tenant has jeopardized the safety of the other occupants. For these reasons, I allow the landlord to obtain an Early End of Tenancy, and I find that the landlord is entitled to an Order of Possession, effective 2 days after service.

As the landlord was successful in her application, she may recover the \$100.00 filing fee from the tenant. Pursuant to section 72 of the *Act*, the landlord may withhold \$100.00 from the tenant's security deposit, in satisfaction for a return of this fee.

### Conclusion

The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within 2 days of service of this Order, the landlord may enforce this Order in the Supreme Court of British Columbia

The landlord may retain \$100.00 from the tenant's security deposit in satisfaction for a return of the filing fee.

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: January 15, 2018

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Residential Tenancy Branch