



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes            ET, FF

### Introduction

This hearing convened as a result of a Landlord's Application for Dispute Resolution wherein the Landlord requested an early end to tenancy and to recover the filing fee.

The hearing was conducted by teleconference on February 8, 2018. Only the Landlord, R.M., called into the hearing. He gave affirmed testimony and was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions to me.

The Landlord testified that he served the Tenant with the Notice of Hearing and the Application on January 12, 2018 by registered mail. A copy of the registered mail tracking number is provided on the unpublished cover page of this my Decision.

*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 Tenant was duly served as of January 17, 2018 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 *Residential Tenancy Rules of Procedure*. However, not all details of the Landlord's 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.

### Issues to be Decided

1. Should the tenancy end early?
2. Are the Landlord entitled to recovery of the filing fee?

### Background and Evidence

The Landlord testified that the tenancy began May 2017 for a fixed term set to expire February 28, 2018.

Introduced in evidence was a document titled "Incident Report" drafted and signed by the other named Landlord, F.S., wherein she writes that during a routine inspection of the rental unit the Tenant pushed her twice. F.S. further writes that she was concerned he was going to push her down the stairs. F.S. was in attendance at the rental unit with T.L., the property manager. In the Incident Report, F.S. writes that T.L. disclosed she had been in an abusive relationship and observing the Tenant pushing F.S. triggered her and caused her to suffer a panic attack. The Landlord testified that following this incident the property manager quit as she was concerned about further dealings with the Tenant.

The Landlord testified that the Tenant also threatened another tenant previously such that this is not the first time he has been aggressive.

The Landlord stated that the Tenant was late paying his rent in November and December 2017 and has not paid any rent for January and February 2018.

In the Incident Report, F.S. writes that the Landlords also seek a restraining order.

### Analysis

After consideration of the undisputed testimony and evidence of the Landlords, in the absence of any evidence from the Tenant who did not appear despite being properly served with notice of this proceeding, and on a balance of probabilities, I accept the undisputed version of events provided by the Landlords and corroborated by their evidence.

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 tenant(s) 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.

Physical violence is wholly unacceptable in a tenancy. I accept the Landlords' evidence that on November 26, 2017, the Tenant pushed the Landlord F.S. twice, and in doing so significantly

interfered with the Landlord and jeopardized her safety, as well as the Landlords' lawful right to inspect the rental unit.

While the corrected effective date of the 1 Month Notice is January 31, 2018 and has therefore passed, I also find it would be unreasonable to wait until a hearing on that Notice. I also find it would be unreasonable to wait until the expiration of the fixed term on February 28, 2018. This landlord-tenant relationship has significantly deteriorated and escalated with the possibility for others to suffer further loss or injury. Therefore, I grant the Landlords' application to end this tenancy early.

As noted, the Landlord, F.S., requested a restraining order by way of the Incident Report filed in evidence. Restraining orders are not available through the Residential Tenancy Branch proceeding; such orders may be obtained through the criminal justice system or the B.C. Provincial Court.

### Conclusion

The Landlords have been granted an Order of Possession effective **two (2) days after service upon the Tenant**. In the event that the Tenant does not comply with this Order it may be filed with the Province of British Columbia Supreme Court and enforced as an Order of that Court.

As the Landlords have been successful in their application, I grant them authority, pursuant to section 72 of the *Residential Tenancy Act*, to retain \$100.00 of the Tenant's security deposit as compensation for the fee paid to file their application.

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: February 8, 2018

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Residential Tenancy Branch