



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET FF

### Introduction

This hearing dealt with the landlords' Application for Dispute Resolution ("application"), seeking an order to end the tenancy early, and receive an order of possession and to recover the cost of the filing fee.

The landlords attended the hearing and gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me. As the tenants did not attend the hearing, service of the Notice of a Dispute Resolution Hearing ("Notice of Hearing"), application and documentary & digital evidence were considered. The landlords provided affirmed testimony that the Notice of Hearing, application and evidence was served on tenants S(e)M and BR in person on January 30, 2018 between 5:00 p.m. and 5:30 p.m. and that both landlords were present. The landlords also stated that tenant S(u)M was served at a different address through her adult daughter on January 30, 2018. Based on the above and without any evidence to prove to the contrary, I accept that the tenants were sufficiently served under the *Act* with the Notice of Hearing, application and documentary & digital evidence.

As the tenants did not attend the hearing although sufficiently served, I consider this matter to be undisputed by the tenants.

### Preliminary and Procedural Matters

The landlords provided two email addresses at the outset of the hearing which were confirmed by the undersigned arbitrator. The landlords confirmed their understanding that the decision would be emailed to them and that any applicable orders would be emailed also. As a tenant email was also included in the application, the decision will be sent by email to the tenants via the email address provided in the application.

In addition to the above, although the landlords stated that prior to the hearing the parties signed a "Mutual Agreement to End Tenancy" ("end of tenancy agreement"), the tenants did not attend the hearing and as a result, I am unable to assist both parties in reaching a mutually settled agreement during the hearing as that requires the attendance of both parties. Given the above, the landlords requested to proceed with the hearing and agreed not to serve the order of possession, if successful, unless the tenants breach the end of tenancy agreement.

### Issues to be Decided

- Are the landlords entitled to end the tenancy early and obtain an order of possession?
- Are the landlords entitled to the recovery of the cost of the filing fee?

### Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed term tenancy began on January 1, 2018 and is scheduled to revert to a month to month tenancy after June 30, 2018. Monthly rent of \$1,000.00 is due on the first day of each month. The tenants paid a security deposit of \$500.00 at the start of the tenancy which the landlords continue to hold.

During the hearing, the male landlord attempted to call the tenants to remind them to call into the hearing for the purpose of formalizing a mutual settled agreement during the hearing and the male landlord stated that while he was able to reach one tenant, she indicated that she was at school. As the tenants did not call into the hearing, the hearing proceeded.

The landlords referred to a January 27, 2018 letter served on the tenants that indicated that tenant S(e)M chased the female landlord up the stairs when the female landlord attempted to serve a 1 Month Notice to End Tenancy for Cause ("1 Month Notice") and that the landlord was screaming due to what she described as a fear for her safety. The landlords stated that the tenants called the police as they wanted to contact the police before the landlords called them and a police file number was provided orally which has been included on the cover page of this decision. According to the female landlord, the actions of tenant S(e)M by chasing her up the stairs caused her to fear for her safety.

### Analysis

Based on the landlords' undisputed documentary evidence and the undisputed testimony provided by the landlords during the hearing, and on a balance of probabilities, I find and I am satisfied that at least one tenant has seriously jeopardizing the health and safety or lawful right or interest of another occupant. I accept that the tenant S(e)M chased the female landlord up the stairs once the female landlord attempted to serve a 1 Month Notice. I am also satisfied that it would be unreasonable and unfair to the landlords or the other occupants to wait for a notice to end tenancy under section 47 of the *Act*. I find that the act of chasing the landlord up a flight of stairs is an aggressive and is completely unreasonable and unacceptable and that the female landlord has a valid reason to fear for her safety as a result. I also find that there is no room for such aggressive actions by tenants towards landlords in any tenancy.

Therefore, pursuant to section 56 of the *Act*, I grant the landlords an order of possession for the rental unit effective no later than **March 31, 2018 at 1:00 p.m.** This date has been used based on the landlords confirming that the tenants have paid for use and occupancy of the rental unit for the month of March 2018. I find the tenancy ended as of the date of this hearing based on the evidence before me, March 9, 2018.

As the landlords' application was successful, I grant the landlords **\$100.00** for the recovery of the cost of the filing fee pursuant to section 72 of the *Act*. I authorize the landlords to retain \$100.00 from the tenants' \$500.00 security deposit in full satisfaction of the recovery of the cost of the filing fee under the *Act*. I find the tenants' security deposit is now \$400.00 as a result of my decision.

### Conclusion

The landlords' application is successful.

The tenancy ended this date, March 9, 2018 pursuant to section 56 of the *Act*. The landlords have been granted an order of possession effective March 31, 2018 at 1:00 p.m. which must be served on the tenants to be effective. Should the landlords require enforcement of the order of possession, and once the tenants have been served, the landlords may enforce the order of possession through the Supreme Court of British Columbia.

I have granted the landlords \$100.00 for the recovery of the cost of the filing fee pursuant to section 72 of the *Act*. I have also authorized the landlords to retain \$100.00 from the tenants' \$500.00 security deposit in full satisfaction of the recovery of the cost

of the filing fee under the *Act*. The tenants' security deposit is now \$400.00 effective immediately.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*. Pursuant to section 77 of the *Act*, a decision or an order is final and binding, except as otherwise provided in the *Act*.

Dated: March 9, 2018

---

Residential Tenancy Branch