



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Kelson Group  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes ET, FFL

### Introduction

In this dispute, the tenant's dog attacked, without warning or provocation, the landlord's employee, seriously jeopardizing his health and safety. Consequently, the landlord sought an order to end the tenancy early and an order of possession, pursuant to section 56 of the *Residential Tenancy Act* (the "Act").

The landlord applied for dispute resolution on April 2, 2019 and a dispute resolution hearing was held on April 30, 2019. The landlord's agent (hereafter the "landlord") and two witnesses for the landlord attended the hearing. One of the witnesses was the victim of the dog attack. The parties were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses.

The landlord testified that she served the Notice of Dispute Resolution Proceeding package (the "package") on the tenant by Canada Post registered mail on April 3, 2019. A copy of the registered mail receipt, label, and tracking number was submitted into evidence. The address on the mailing label matched that of the address for service where the tenants currently resides. The Canada Post tracking website indicates that on April 4, 2019, the item was refused by the tenant.

Where a document is served by registered mail, the refusal of the party to accept or pick up the registered mail, does not override the deeming provision. Where the registered mail is refused or deliberately not picked up, receipt continues to be deemed to have occurred on the fifth day after mailing.

Given the above, I find that the tenant was served with the package in compliance with section 89 of the Act and was deemed to have received the package on the fifth day after it was mailed, pursuant to section 90 of the Act.

I have reviewed evidence submitted that met the requirements of the *Rules of Procedure*, and to which I was referred, but only evidence relevant to the issues of this application are considered in my decision.

### Issues

1. Whether the landlord is entitled to an order ending the tenancy early and an order of possession of the rental unit.
2. Whether the landlord is entitled to compensation for the cost of the filing fee.

### Background and Evidence

The landlord testified that the tenancy began on April 1, 2015, and that the original tenancy agreement and tenancy were with a previous landlord. A copy of the written tenancy agreement, including an addendum, were submitted into evidence. Monthly rent is currently \$1,335.00 and the tenant paid a security deposit of \$587.50 and a pet damage deposit of \$250.00.

On March 28, 2019, the landlord and her two employees (the two witnesses who attended the hearing) were about to convene for a meeting in her office. The landlord wanted to have a quick meeting with someone else, so the two employees decided to go get a bite. As the two employees made their way along a pathway next to the building, the tenant and her boxer dog approached them.

At the instance of the tenant and the dog passing the two employees the dog, without provocation or warning, lunged at the employee L.H. and bit his left hand. The tenant pulled back on the leashed dog, and continued walking.

The two employees quickly returned to the office and sought out a first aid kit. There was “blood pouring from his hand” and the landlord bandaged the employee’s hand up, stabilising the injuries so that the other employee (A.C.) could take L.H. to the hospital.

While this is happening, the tenant popped her head into the office and commented that “my dog doesn’t like him.” The landlord was preoccupied with first aid and told the tenant that she was not able to have a discussion at that point.

A.C. then took L.H. to the hospital for treatment. A photograph of the employee’s was submitted into evidence, along with copies of a WorkSafeBC injury report. The photograph, though not of the best quality and in black and white, clearly shows severe and extensive dog bite injuries.

The landlord testified that the tenant has had the boxer dog—“Cassius,” or “Cash” for short—since the beginning of the tenancy. While the March 28 incident was the first documented incident involved in the dog, and by far the worst, the landlord commented that other employees and contractors had come forward with reports of Cassius lunging at them, growling, and other

acting aggressively. In support of, and consistent with their testimony the employees submitted written statements into evidence.

Further, the landlord testified that she had asked the tenant to at least muzzle the dog, to which the tenant has not done. In her final submission the landlord argued that the dog's behavior and the tenant's lackadaisical attitude in failing to control her dog poses a serious risk to not only her employees but to the other families of the complex. The risk is even greater given the many young children who live throughout the building.

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Section 56(1) of the Act permits a landlord to make an application for dispute resolution to request an order (a) 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 (b) granting the landlord an order of possession in respect of the rental unit.

In order for me to grant an order under section 56(1), I must be satisfied that

- (a) the tenant or a person permitted on the residential property by the tenant has done any of the following:
  - (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
  - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
  - (iii) put the landlord's property at significant risk; [ . . . ]
- (b) it would be unreasonable, or unfair to the landlord 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.

In this case, the tenant appears to have kept an aggressive and dangerous dog with her since 2015. And, she has appeared to take no measures in either controlling the dog or in putting in place any sort of risk mitigation mechanism, such as a muzzle. Her remorseless and callous remark ("my dog doesn't like him"), made within minutes of the dog chomping down on the

landlord's employee's hand, demonstrates a complete lack of interest in reducing the serious risk her dog poses to the landlord or other occupants.

Furthermore, the injuries caused by the tenant's dog are of a very serious nature. Indeed, a similar injury inflicted on a young child, of whom there are many within the building, could potentially lead to permanent injuries or, worse, death.

Taking into consideration all the oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving their claim for an order ending the tenancy early under section 56(1)(a) and for an order of possession under section 56(1)(b) of the Act. It would be, I find, unreasonable and unfair to the landlord and to the other occupants of the residential property to wait for a notice to end the tenancy under section 47 of the Act.

As the landlord was successful in their application I grant a monetary award of \$100.00 for the filing fee. I order that the landlord may retain \$100.00 of the tenant's pet damage deposit in full satisfaction of this award.

### Conclusion

I grant the landlord an order of possession, which must be served on the tenant and is effective 2 days from the date of service. This order may be filed in, and enforced as an order of, the Supreme Court of British Columbia.

I hereby order that the tenancy ends 2 days after the order of possession is served on the tenant.

This decision is final, binding, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: April 30, 2019

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Residential Tenancy Branch