



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes            ET   FF

This hearing was convened as a result of the Landlords' Application for Dispute Resolution, made on March 26, 2019 (the "Application"). The Landlords applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession; and
- an order granting recovery of the filing fee.

The Landlords attended the hearing at the appointed date and time, and provided affirmed testimony. The Tenant did not attend the hearing.

The Landlords testified the Application package was served on the Tenant in person on March 30, 2019. In the absence of evidence to the contrary, I find the Application package was served on and received by the Tenant on that date.

The Landlords were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

## **Issues**

1. Are the Landlords entitled to an order of possession?
2. Are the Landlords entitled to recover the filing fee?

### Background and Evidence

The Landlords confirmed the tenancy began on April 25, 2015. Rent is currently due in the amount of \$725.00 per month. The Tenant paid a security deposit of \$325.00 and a pet damage deposit of \$200.00, which the Landlords hold.

The Landlords wish to end the tenancy. The Landlords described the Tenant as a hoarder and testified that her small rental unit (<400 square feet) is a hazard. For example, the Landlords testified that the Tenant can barely open her front door due to the accumulation of belongings in the rental unit, which are piled to head height. The Landlords also submitted a photograph of the kitchen which depicts items piled on the stovetop and countertops.

The Landlords also testified the local government and fire department have been involved. Submitted in support were several Notices of Violation from the fire department dated September 14, November 30, and December 11, 2018, and January 25, 2019. These documents set out the fire departments safety concerns about the rental unit and require clear paths to be created throughout the rental unit. The notice dated January 25, 2019, indicated there has been no progress. The Landlords testified the Tenant was provided with notices to make the required changes, as well as copies of the Notices of Violation, but has failed to make changes to the condition of the rental unit.

The Landlords also submitted a hand-written letter from another occupant of the rental property, describing the Tenant as a hoarder and a smoker. The writer describes the Tenant's unit as a "FIRE TRAP".

The Tenant did not attend the hearing to dispute the Landlords' evidence.

### Analysis

Based on the unchallenged and affirmed documentary evidence and oral testimony, and on a balance of probabilities, I find:

Section 56 of the *Act* permits a landlord to end a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 of the *Act*.

The circumstances which permit an arbitrator to make these orders are enumerated in section 56(2) of the *Act*, which states:

*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...*

- (a) *The tenant or a person permitted on the residential property by the tenant had 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 landlords property at significant risk;*
  - (iv) *engaged in illegal activity that*
    - (A) *has caused or is likely to cause damage to the landlord's property,*
    - (B) *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, or*
    - (C) *has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;*
  - (v) *caused extraordinary damage to the residential property, and*

*(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.*

[Reproduced as written.]

In this case, I find the Tenant has, by accumulating belongings in her rental unit, seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, and has put the Landlords property at significant risk. The Landlords provided unchallenged evidence confirming the fire department's ongoing concerns. However, as noted in the Notice of Violation dated January 25, 2019, there has been no progress. Further, I find it would be unreasonable or unfair to the Landlord to wait for a notice to end the tenancy under section 47 of the *Act*. The Tenant has been provided with multiple opportunities to comply with the requirements of the fire department but has elected not to do so.

I find the Landlord has demonstrated an entitlement to an order of possession, which will be effective two (2) days after service on the Tenant. In addition, having been successful, I find the Landlord is entitled to recover the filing fee paid to make the Application, which I order may be deducted from the security deposit held.

### Conclusion

The Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. The order of possession may be filed in 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: April 26, 2019

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Residential Tenancy Branch