



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding TRASOLINI & ENG CONSTRUCTION LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ET

### Introduction

This hearing dealt with an *Application for Dispute Resolution – Expedited Hearing* by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- An order for an early end of a tenancy and an order of possession pursuant to section 56.

DT appeared as agent for the landlord (“the landlord”). WE was called as a witness for the landlord. The tenant attended. The parties were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The landlord testified that the landlord’s Application and evidentiary package was served on the tenant on June 20, 2019 by posting on the tenant’s door. The landlord filed a witnessed Proof of Service document in support of service. The tenant acknowledged service and receipt of all materials relied upon by landlord. Pursuant to sections 90 of the *Act*, the tenant is deemed served with the application and evidence three days after their posting, on June 23, 2018. No issues of service were raised. I find the landlord served the tenant in accordance with the *Act*.

### Issue(s) to be Decided

Is the landlord entitled to the following?

- An order for an early end of a tenancy and an order of possession pursuant to section 56.

### Background and Evidence

The landlord testified that the parties entered into a residential tenancy agreement in 2016 for rental of the unit which is in an apartment building. Rent is \$1,170.00 monthly payable on the first of the month and a security deposit of \$550.00 paid at the outset of the tenancy continues to be held by the landlord.

The landlord has applied for an early end of tenancy and an order of possession.

The landlord provided substantial evidence including signed witness statements as well as audio and video files. The hearing lasted over an hour. The landlord called WE, neighbour of the tenant, to provide evidence at the hearing.

The landlord summarized his claim in the Application as follows [as written]:

*[neighbours of tenant] has stated they are in extreme danger & suffering from [tenant's behaviours] towards them. Threats of harm.*

The landlord submitted written statements from witness WE who was also called to provide affirmed evidence at the hearing, a summary of his evidence being as follows:

- WE, his wife and roommate live in the unit immediately adjacent to the tenant's; they share a dividing wall;
- Beginning in April 2019, the tenant started a pattern of drunken gatherings during which there was fighting, smashing walls and other loud behaviour as a result of which the police were called, sometimes several times a night;
- On April 15, 2019, WE called the police on two occasions because of fighting, screaming and arguments in the tenant's unit; the police attended, and violence resulted between the tenant, occupants of the tenant's unit and the police; the police file number was provided;
- The tenant had repeated loud parties involved "screaming and singing" from late in the evening until 2-3 AM, during which time WE and other building occupants repeatedly asked the tenant to be quiet, to no avail;
- On June 8 and 11, 2019, WE called the police again for noise, sounds of property damage, screaming, and swearing from the tenant's unit and provided file numbers;
- The tenant's disruptive behaviour has escalated to include the tenant stalking and harassing WE, his wife and roommate; the tenant has said offensive,

aggressive statements, such as, “I am going to smash your face”, and screaming abusive, sexist epithets at WE’s wife which were repeated verbatim at the hearing;

- WE testified the he, his wife and roommate are “terrified” of the tenant; WE’s wife will not go to the building’s laundry room unless she is accompanied and requests to be accompanied in and out of the apartment building;
- WE stated that he and his wife “feel like we are in danger and in a constant state of duress”; they have stayed with family to avoid the tenant;
- Beginning in early June 2019 and continuing to this day, the tenant follows WE and his wife, intimidating them so they turn around on sidewalks to avoid meeting him, filming them, and following them.

The landlord submitted as evidence the statement of BP the occupant of another unit in the apartment building which states in part as follows:

*I... am a witness of the last events provoked by ‘tenant’, which were immeasurably disrespectful and out of place, fueled by inappropriate negativity and misogyny. These facts attempt against the peace and coexistence of our community, transforming our environment into a unsafe and unstable one, unquestionably violating our right of quiet enjoyment established in the Act and endangering our physical integrity. That is why I consider that the only possible solution to what has been raised before, is the eviction of [tenant].*

The tenant denied any wrongdoing. The tenant vehemently stated that the landlord does not have any grounds upon which to get an order of possession. He admitted there was noise from his unit one night in April 2019, but the cause was his roommate, and not the tenant himself. The tenant acknowledged that the police were called to the unit many times but “they never arrested me”. The tenant denied name-calling, threatening, stalking or harassing the witnesses or any other person in the building. He denied using drugs or alcohol. He stated that he has a responsible job, must go to bed early, and did not have late-night events in his unit which disturbed other tenants. He accused the witnesses of “taunting him” so that he was filming himself being “a normal guy”.

### Analysis

The parties submitted significant contradictory evidence. The hearing lasted over an hour and the landlord called one witness. While I have turned my mind to the documentary evidence and the testimony presented, not all details of the submissions and arguments are reproduced here. The principal aspects of this matter and my findings are set out below.

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. In this case, the onus is on the landlord to establish on a balance of probabilities that he is entitled to an order for an early end of the tenancy.

To end a tenancy early, the landlord must prove that the tenant has done something contract to section 56 **and** that it would be unreasonable or unfair to the landlord or other occupants to wait for a notice to end tenancy for cause ("One Month Notice"). Section 56 of the Act provides as follows [emphasis added]:

***Application for order ending tenancy early***

**56** (1) *A landlord may 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 [landlord's notice: cause], and*
- (b) granting the landlord an order of possession in respect of the rental unit.*

*(2) 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,*

- (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;*

- (iv) engaged in illegal activity that 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.*

*(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.*

The landlord relied on section 56(2)(a)(i), that is, that *the tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property.*

Based on a review of the testimony and evidence, I find that the landlord has met the burden of proof on a balance of probabilities under section 56(2)(a)(i); accordingly, I grant an order ending the tenancy on two days notice and an order of possession directing that the tenant and all occupants deliver up peaceful possession of the unit on or before that time.

In reaching this conclusion, I have given significant weight to the oral and written testimony of WE, the neighbour of the tenant. WE gave candid, forthright, credible evidence establishing that the tenant increasingly engaged in activities that significantly disturbed him and his wife and caused them to fear for the physical safety. I believed his evidence that the tenant frequently held all night parties at which the police attended numerous times, his evidence being accompanied by police file numbers. I accept his testimony that the tenant called him and his wife names, while screaming and swearing at them through the shared dividing wall of their units, sometimes throughout the night. I accept WE's evidence that the tenant's behaviour escalated to include stalking and harassment, terrifying WE and his wife. I find as credible his description of how they were "prisoners in their own home"; his wife did not feel safe even going to the laundry room in the building.

I particularly found WE's evidence believable and convincing as it was supported by the written statement of another tenant BP who stated he witnessed some of the behaviour to which WE referred and that the apartment building was now "unsafe" because of the tenant's actions which "endangered" safety.

I do not believe the tenant's blanket denial of all wrongdoing. I did not find the tenant believable, but instead characterize his testimony as self-serving and implausible. I find the tenant minimized or denied his responsibility for the events complained of by the other tenants to a point that was beyond understanding.

On a balance of probabilities and for the reasons stated below, I find that the landlord's application satisfies all requirements under section 56(2)(b) of the *Act*. I find that the landlord provided sufficient evidence that it would be unreasonable to issue a One Month Notice to the tenant, as the testimony and evidence presented by the landlord demonstrated a significant risk of physical violence to the neighbors of the tenant. I find it would be unreasonable and unfair to the occupants of the building, to wait for a One Month Notice to take effect.

Accordingly, I allow the landlord's application for an early end to this tenancy and an order of possession will be issued effective on two days notice.

### 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 two days of service of this order, the landlord may enforce this order in 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: June 28, 2019

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Residential Tenancy Branch