



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET, FFL

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an early end to this tenancy and an Order of Possession pursuant to section 56; and,
- authorization to recover the filing fee for this application pursuant to section 72

The landlords attended the hearing. The landlords had full opportunity to provide affirmed testimony, present evidence, and make submissions.

The tenants did not attend the hearing. I kept the teleconference line open for the duration of the hearing to allow the landlord the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct participant code was provided to the tenants.

The landlord testified the tenants were personally served with the Notice of Expedited Hearing on July 10, 2019, by delivering copies to the tenants. The landlords presented a witnessed proof of service of the notice. I find that the tenants have been properly served pursuant to section 89 of the *Act*.

### Issue(s) to be Decided

Are the landlords entitled to an early end to this tenancy and an Order of Possession pursuant to section 56?

Are the landlords entitled to authorization to recover the filing fee for this application pursuant to section 72?

### Background and Evidence

The landlords testified that tenant, P.N. has been severely disturbing other tenants in the rental building. The landlords testified that the tenant has been frequently playing music extremely loudly. The landlords testified that when other residents would ask the tenants to turn down their music, tenant P.N. would yell at them.

The landlord present a complaint letter dated June 29, 2019 from an neighbouring tenant who complained that tenant, P.N. was frequently yelling and he made excessive noises at all hours of the night. In addition, one of the tenants' called the neighbouring tenant a profane name. Another of the tenants' guests tried to enter the property from the rear and he slammed the gate so hard that he broke it.

The landlords presented a witness who testified that tenant P.N. frequently played music so loud that the dishes rattled in his rental unit. The witness made noise complaints on multiple dates including May 26, June 4, June 8, and June 10, 2019. The witness testified that tenant P.N. is rude and aggressive. The witness testified that he is fearful tenant P.N. and he will not go outside.

The tenant changed the locks without permission on June 4 and June 30, 2019.

The landlords testified they have received numerous complaints from strata about the tenants. In addition, the landlords have received a \$200.00 fine from strata for the tenants' excessive noise.

### Analysis

The landlord have requested an early end of tenancy pursuant to section 56 of the *Act*.

Section 56(2) of the *Act* states:

- (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
  - (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.

Residential Tenancy Branch Policy Guideline No. 51 states the following about early ends to tenancy:

Applications to end a tenancy early are for very serious breaches only and require sufficient supporting evidence. An example of a serious breach is a tenant or their guest pepper spraying a landlord or caretaker.

The landlord must provide sufficient evidence to prove the tenant or their guest committed the serious breach, and the director must also be satisfied that it would be unreasonable or unfair to the landlord or other occupants of the property or park to wait for a Notice to End Tenancy for cause to take effect (at least one month). Without sufficient evidence the arbitrator will dismiss the application. Evidence that could support an application to end a tenancy early includes photographs, witness statements, audio or video recordings, information from the police including testimony, and written communications. Examples include:

- A witness statement describing violent acts committed by a tenant against a landlord;

- Testimony from a police officer describing the actions of a tenant who has repeatedly and extensively vandalized the landlord's property;
- Photographs showing extraordinary damage caused by a tenant producing illegal narcotics in a rental unit; or
- Video and audio recordings that clearly identify a tenant physically, sexually or verbally harassing another tenant.

In applying these standards, I find that the tenants have significantly interfered with and unreasonably disturbed another occupants by repeatedly playing extremely loud music.

In addition, I find that 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 of the *Act*. I find that the noise created by the tenants is extreme and it is unfair to occupants to endure this noise until the landlord could obtain an order of possession by a notice to end tenancy for cause. I find that this situation is especially intolerable due to tenant P.N. aggressive and belligerent demeanor.

For the forgoing reasons, I find that the landlords are entitled to an early end of this tenancy. The landlords are granted an order of possession **two days after service on the tenants**.

In addition, since the landlords have been successful this matter, I award the landlords \$100.00 for recovery of the filing fee which may be deducted from the security deposit pursuant to section 72(2)(b) of the *Act*. The landlords are also provided with a monetary order of \$100.00 against the tenant if the landlords do not deduct the filing fee from the deposit. However, the landlords MAY NOT deduct the \$100.00 from the security deposit and collect the \$100.00 monetary order.

### Conclusion

I find the landlords are entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenants fail to comply with this order, the landlords may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

The landlords may deduct the \$100.00 filing fee from the tenants' security deposit. I also grant the landlords a monetary order in the amount of **\$100.00** to be used by the landlords only if the landlords do not deduct the \$100.00 filing fee from the security

deposit. If the tenant fails to comply with this order, the landlords may file the order in the Provincial Court to be enforced as an order of that Court.

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: July 22, 2019

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Residential Tenancy Branch