



# 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* ("Act") for:

- an early end to 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 five tenants did not attend this hearing, which lasted approximately 44 minutes. The landlord and her agent attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that her agent, who is her husband, had permission to speak on her behalf, at this hearing.

This matter was filed as an expedited hearing under Rule 10 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* ("Rules"). The landlord filed her application on August 23, 2019 and a notice of hearing was issued by the RTB on August 28, 2019. The landlord was required to serve that notice, the application, and all other required evidence in one package to the five tenants, within one day of receiving the documents from the RTB, as per RTB *Rules* 10.2 and 10.3.

The landlord testified that she personally served tenant CT with five copies of the landlord's application for dispute resolution hearing package on August 29, 2019. The landlord's agent confirmed that he witnessed this service. In accordance with section 89 of the *Act* and in compliance with the deadlines in RTB *Rule* 10, I find that all five tenants were served with the landlord's application on August 29, 2019. The landlord is entitled to serve tenant CT at the tenants' residence, as she is an adult tenant residing

with the other four tenants, as per the Standing Order of the Executive Director, dated June 26, 2019.

### Issues to be Decided

Is the landlord entitled to an early end to tenancy and an Order of Possession?

Is the landlord entitled to recover the filing fee paid for this application?

### Background and Evidence

While I have turned my mind to the landlord's documentary evidence and the testimony of the landlord and her agent, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the landlord's claims and my findings are set out below.

The landlord testified regarding the following facts. This tenancy began on September 10, 2017, for a fixed term until September 9, 2018, after which it became a month-to-month tenancy. Monthly rent in the current amount of \$1,600.00 is payable on the first day of each month. A security deposit of \$800.00 and a pet damage deposit of \$800.00 were paid by the tenants and the landlord continues to retain both deposits. A written tenancy agreement was signed by both parties. The tenants continue to reside in the rental unit. The rental unit is a two-level apartment. The landlord lives in the front of the same rental property and other tenants vacated the unit next door to the rental unit.

The landlord testified regarding the following facts. The tenants engage in illegal activity, and fight with and abuse the landlord and her family. The landlord provided copies of police file numbers as well as criminal record history searches from the Court databases, stating that she could not obtain police records because of the lengthy FOIPPA wait times. On July 25 or 27, 2019, three of the male tenants beat up the landlord's 22-year-old daughter with a piece of wood, as the landlord's daughter was in the backyard attempting to get her bike with her 14-year-old sister. The landlord's son took his injured sister to the hospital. She suffered a skull fracture, a concussion, depression, and post-traumatic stress disorder. She cannot go to school or work, she cannot eat properly, she frequently vomits, and she was admitted to the psychiatric ward later in the hospital because she tried to commit suicide. She is constantly screaming and swearing at the landlord for having the tenants live at the rental property because she is afraid of them.

The landlord testified regarding the following facts. The landlord asked the police to investigate her daughter's assault, but they are racist towards the landlord's family, refusing to obtain evidence from only family members. The police arrested and charged the landlord's injured daughter with uttering threats and breaching conditions. The landlord wrote letters asking for further investigations to be done through her MP office and the police. The tenants living next door to the tenants in the attached rental property, as well as the next-door neighbour in another unit, have both moved out and are fearful to cooperate with the police or the landlord, due to the tenants' behaviour.

The landlord confirmed that she filed an application for an early end to tenancy, after which a previous RTB hearing occurred on July 30, 2019. A decision was issued by a different Arbitrator on July 30, 2019, dismissing the landlord's application with leave to reapply, as neither party attended the hearing. The file number for that hearing appears on the front page of this decision. The landlord said that her daughter was sick after the assault by the tenants, so she was unable to attend that hearing in order to care for her daughter.

The landlord's agent testified regarding the following facts. He heard his 22-year-old daughter screaming at the time that she was being assaulted by the three male tenants. The tenants tried to pour water on her and grabbed her chest and private parts. The landlord's agent explained what happened to the police, but they did not investigate, charge or arrest the tenants because they would not accept evidence from only the landlord's family members. The landlord's agent's children are afraid of the tenants, cannot go outside to play, and the tenants continue to swear and point at his wife and children. He is fearful of living at the rental property and wants to sell his belongings and move away to avoid the tenants.

### Analysis

Section 56 of the *Act* requires the landlord to show, on a balance of probabilities, that the tenancy must end earlier than the thirty days indicated on a 1 Month Notice to End Tenancy for Cause ("1 Month Notice"), due to the reasons identified in section 56(2) of the *Act* **AND** that it would be unreasonable or unfair for the landlord or other occupants to wait for a 1 Month Notice to take effect, as per section 56(2)(b).

To satisfy section 56(2)(a) of the *Act*, the landlord must show, on a balance of probabilities, 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;*
- (iv) engaged in illegal activity that*
  - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;*

On a balance of probabilities and for the reasons stated below, I find that the tenants significantly interfered with and unreasonably disturbed the landlord and her family. I also find that the landlord's application meets the second part of the test under section 56(2)(b) of the Act. I find that the landlord provided sufficient evidence that it would be "unreasonable" or "unfair" to wait for a 1 Month Notice to take effect.

I find that the landlord provided sufficient evidence regarding the urgency and seriousness of this situation. The landlord and her agent provided undisputed affirmed testimony under oath, that the tenants assaulted their daughter causing serious injuries requiring hospitalization, that their children cannot go outside to play at the rental property, that the tenants continue to threaten their family, and that their family is fearful to live at the rental property.

Accordingly, the landlord's application for an early end to tenancy is allowed. The landlord is granted an order of possession effective two (2) days after service on the tenants.

As the landlord was successful in this application, I find that she is entitled to recover the \$100.00 filing fee from the tenants.

### Conclusion

The landlord's application is allowed.

I grant an Order of Possession to the landlord effective two (2) days after service on the tenant(s). Should the tenant(s) or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I order the landlord to retain \$100.00 from the tenants' security deposit of \$800.00 in full satisfaction of the filing fee monetary award.

The remainder of the tenants' security deposit of \$700.00 and pet damage deposit of \$800.00 is to be dealt with at the end of this tenancy in accordance with section 38 of the *Act*.

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: September 06, 2019

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Residential Tenancy Branch