



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CENTURY 21 HORIZON WEST  
REALTY and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ET FFL

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (the Act) for an order to end the tenancy early and receive an order of possession, and to recover the cost of the filing fee.

An agent for the landlord JK (agent) and a witness for the landlord TG (witness) attended the hearing and gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me. The hearing process was explained and an opportunity to ask questions was provided to the agent.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding dated November 26, 2019 (Notice of Hearing), the application and documentary evidence were considered. The agent provided affirmed testimony that the Notice of Hearing, application and documentary evidence were served on the tenant by registered mail on November 28, 2019. The agent provided a registered mail tracking number in evidence and confirmed that the name and address on the registered mail package matched the name of the tenant and the address for the tenant. Documents sent by registered mail are deemed served five days after mailing pursuant to section 90 of the Act. The registered mail tracking number has been included on the cover page of this decision for ease of reference. Based on the undisputed testimony, undisputed documentary evidence and the Canada Post registered mail website, all of which confirm that the registered mail package was signed for and accepted on December 3, 2019, I find the tenant was sufficiently served.

As the tenant did not attend the hearing, I consider this matter to be unopposed. Words utilizing the singular shall also include the plural and vice versa where the context requires.

### Preliminary and Procedural Matter

The agent confirmed their email address at the outset of the hearing and stated that they understood that the decision and any applicable orders would be emailed to them. As the agent did not have an email address for the tenant, the decision will be sent by regular mail to the tenant.

### Issues to be Decided

- Is the landlord entitled to end the tenancy early and obtain an order of possession?
- Is the landlord entitled to the recovery of the cost of the filing fee?

### Background and Evidence

The agent testified that the tenant advised his father, the witness, that he invited a homeless person (occupant) into the rental unit who eventually refused to leave after taking the tenant's television. The agent also stated the occupant threatened the tenant with bodily harm and as a result, the tenant has fled the rental unit for fear of personal harm.

The witness presented affirmed testimony that their son, the tenant, advised the witness that the tenant threatened by the occupant and that the tenant feared for his safety as the occupant threatened to beat his face to a pulp. Furthermore, in December 2019, when the witness accompanied the tenant back to the rental unit to retrieve his car, the witness heard the occupant threaten the tenant by saying "I will beat your face to a pulp". The witness also stated that the occupant had previously stabbed someone in prison according to the tenant. The witness confirmed that their son, the tenant, is too fearful to return to the rental unit.

The agent testified that the tenant admitted the occupant has damaged the walls of the rental unit by kicking them. The agent is seeking an order of possession based on threats of physical harm by the occupant of the rental unit and extraordinary damage to the rental unit.

## Analysis

Based on the undisputed documentary evidence and the undisputed testimony provided during the hearing, and on a balance of probabilities, I find and I am satisfied that a person permitted on the residential property has engaged in illegal activity that has adversely the quiet enjoyment, security, safety and physical well-being of another occupant of the residential property. Furthermore, I find a person permitted on the residential property, the occupant, has caused extraordinary damage to the residential property based on the undisputed testimony before me.

Section 56 of the Act applies and states:

### **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**
    - (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.**

(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.

[Emphasis added]

I am also satisfied that it would be unreasonable and unfair to the landlord to wait for a notice to end tenancy under section 47 of the Act. I find the actions of the occupant who was invited into the rental unit and then refused to leave when asked to be unreasonable and that there is no room in any tenancy for threatening anyone with violence or causing extraordinary damage to the rental unit.

Therefore, pursuant to section 56 of the Act, I grant the landlord an order of possession for the rental unit effective not later than **two (2) days** after on the tenant. I find the tenancy ended the date of this hearing, January 3, 2020 pursuant to section 62(3) of the Act.

As the landlord's application is successful, I grant the landlord **\$100.00** for the recovery of the cost the filing fee under section 72 of the Act. I authorize the landlord to retain \$100.00 from the tenant's \$400.00 security deposit pursuant to sections 38 and 67 of the Act in full satisfaction of the recovery of the cost the filing fee. I find the tenant's security deposit is now \$300.00 effective immediately pursuant to section 62(3) of the Act.

### Conclusion

The landlord's application is successful. The tenancy ended this date, January 3, 2020. The landlord is granted an order of possession effective two (2) days after service on the tenant.

This decision will be emailed to the landlord and sent by regular mail to the tenant. The order of possession will be emailed to the landlord for service on the tenant. This order may be enforced through 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 *Act*. Pursuant to section 77 of the *Act*, a decision or an order is final and binding, except as otherwise provided in the *Act*.

Dated: January 3, 2020

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Residential Tenancy Branch