



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Veterans Memorial Housing Society  
and [tenant name suppressed to protect privacy]

## **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 termination of tenancy and Order of Possession, pursuant to section 56; and
- authorization to recover the filing fee from the tenant, pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:40 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. The landlord's agent attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord's agent and I were the only ones who had called into this teleconference.

The landlord's agent testified that the landlord's application for dispute resolution was posted on the tenant's door on March 24, 2020. A signed witness statement confirming same was entered into evidence as was a photograph of the package taped to the tenant's door. Based on the above I find that the tenant was served, pursuant to section 89(2)(d) of the *Act*, with the landlord's application for dispute resolution.

### Issues to be Decided

1. Is the landlord entitled to an early termination of tenancy and Order of Possession, pursuant to section 56 of the *Act*?

2. Is the landlord entitled to recover the filing fee from the tenant, pursuant to section 72 of the *Act*?

### Background and Evidence

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

The landlord's agent provided the following undisputed testimony. This tenancy began in December of 2013 and is currently ongoing. The subject rental property is an apartment in an apartment building. Monthly rent in the amount of \$465.00 is payable on the first day of each month. A security deposit of \$198.50 was paid by the tenant to the landlord.

The landlord's agent testified that on March 18, 2020 the tenant set a fire in front of his neighbour's front door in order to distract his neighbour and steal his money. The landlord entered into evidence a signed statement from the tenant's neighbour which states in part:

At approximately 1:35 PM March 18, 2020, I was seated in my usual spot/chair, [the tenant] is at my door yelling fire, so I looked over and saw a flame. My view of the door was blocked as my scooter was in the way. So I got up walking towards the exit door. [The tenant] is there with a fire extinguisher. He was unable to get it to work. So he goes into his unit (Right next door to my unit) and grabs a brown towel and stamps out the fire.

At this time, he barges past me into my unit yelling, we've got to get these windows open. We have to get air in here. He had stolen from me before and I thought I better get back there, as quick as an 80-year old man with a walker can, and I see him taking money from my jar and putting it in his pocket. I said put that money back.

I tried to grab him to get my money back. He dodged me and ran out of the unit. I chased after him with my walker down towards the back stairs, yelling bring my money back. But obviously he was too fast.

The landlord's agent testified that the neighbour's story was corroborated by his maintenance staff who saw the tenant run past them as they were on their way to investigate the source of the fire alarm, and saw the neighbour following the tenant and demanding the tenant return his money.

The landlord's agent testified that the wall outside the tenant's door is charred. The landlord's agent testified that the subject rental building does not have a sprinkler system and the fire caused by the tenant put the entire building at serious risk.

The landlord testified that a One Month Notice to End Tenancy for Cause was posted on the tenant's door on March 23, 2020.

### Analysis

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an Order of Possession on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 for a landlord's notice for cause. In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that the tenant has done any of the following:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;*
- *seriously jeopardized the health or safety or a lawful right or interests of the landlord or another occupant.*
- *put the landlord's property at significant risk;*
- *engaged in illegal activity that has caused or is likely to cause damage to the landlord's property;*
- *engaged in illegal activity that 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;*
- *engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;*
- *caused extraordinary damage to the residential property, **and***

*it would be unreasonable, or unfair to the landlord, the tenant 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.*

An early end of tenancy is an expedited and unusual remedy under the *Act* and is only available to the landlord when the circumstances of the tenancy are such that it is unreasonable for a landlord to wait for the effective date of a notice to end tenancy to take effect, such as a notice given under Section 47 of the *Act* for cause. At the dispute resolution hearing, the landlord must provide convincing evidence that justifies not giving full notice.

I accept the landlord's agent's undisputed testimony that the tenant set a fire at the subject rental property. I find the tenant set the fire to gain access to his neighbour's apartment and steal from him.

I find that in setting a deliberate fire, the tenant:

- seriously jeopardized the health or safety or a lawful right or interests of the landlord or another occupant; and
- put the landlord's property at significant risk.

I find that allowing the tenant, who has shown a wanton disregard for the safety of others, to continue to reside at the subject rental building would put the landlord and other occupants in danger. I find it unreasonable for the landlord to wait for the effective date of a notice to end tenancy to take effect, such as a notice given under Section 47 of the *Act* for cause. Therefore, pursuant to section 56 of the *Act*, I issue the landlord an Order of Possession, effective two days after service on the tenant.

As the landlord was successful in its application for dispute resolution, I find that the landlord is entitled to recover the \$100.00 filing fee from the tenant, pursuant to section 72 of the *Act*.

Section 72(2) of the *Act* states that if the director orders a tenant to make a payment to the landlord, the amount may be deducted from any security deposit or pet damage deposit due to the tenant. I find that the landlord is entitled to retain \$100.00 from the tenant's security deposit.

### Conclusion

Pursuant to section 56 of the *Act*, I grant an Order of Possession to the landlord effective **two days after service on the tenant**. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to section 72(2) of the *Act*, the landlord is entitled to retain \$100.00 from the tenant's security deposit.

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 02, 2020

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Residential Tenancy Branch