



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding GREATER VICTORIA HOUSING SOCIETY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ET, FFL

### Introduction

On April 3, 2020, the Landlord made an Application for Dispute Resolution seeking an early end to this tenancy and an Order of Possession pursuant to Section 56 of the *Residential Tenancy Act* (the “*Act*”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

Y.B. and R.M. attended the hearing as agents for the Landlord. The Tenant attended the hearing with V.S. attending as her advocate. All parties provided a solemn affirmation.

R.M. advised that the Tenant was served the Notice of Hearing package and one page of evidence by posting it to the Tenant’s door on April 6, 2020. The Tenant confirmed that she received this on or around April 9, 2020 and did not make any further submissions with respect to service of these documents. Based on the undisputed testimony, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenant was served the Notice of Hearing package and one page of evidence.

R.M. advised that the Landlord’s evidence was posted to the Tenant’s door on or around April 23, 2020 and the Tenant confirmed that she received this evidence. She also stated that she had read it, that she had reviewed it, and that she was prepared to respond to it. As the Tenant was prepared to respond to this evidence, I have accepted it and will consider it when rendering this decision.

The Tenant advised that she hand served her evidence to the Landlord’s office “a few days ago” and Y.B. confirmed that this was received. As well, she stated that this evidence has been reviewed and that they were prepared to respond to it. As the agents for the Landlord were prepared to respond to this evidence, I have accepted it and will consider it when rendering this decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

- Is the Landlord entitled to an early end to this tenancy and an Order of Possession?
- Is the Landlord entitled to recover the filing fee?

### Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on December 15, 2006 and that rent was subsidized. While the parties disagreed on how much rent was per month, they agreed that it was due on the first day of each month. A security deposit of \$331.50 was also paid.

Y.B. advised that the top floors of the building are rented to seniors and people with disabilities and that the lower floors are rented as family units. She stated that many of the residents are vulnerable or immuno-compromised and notices were posted around the building in mid-March 2020 stating that guests of the building should only be visiting for the essential care of the residents. She stated that to ensure the safety of the residents of the building, guests are monitored constantly. Furthermore, in the past the Tenant has often allowed questionable guests into the building and into her rental unit.

R.M. advised that there is a concern with the Tenant due to her history of excessive noise and allowing questionable guests onto the property. He stated that he has had several conversations with the Tenant about this in the past. As a low-income housing unit, the Landlord has given the Tenant leeway over past transgressions in an effort to still provide her with a place to live; however, she continually takes advantage of this. He submitted that on April 2, 2020, he observed a guest of the Tenant leave the building and he then observed her to visit a nearby homeless encampment where she engaged with individuals while not respecting social distancing guidelines recommended during the pandemic. He reviewed the security camera footage and discovered that this person

had visited the Tenant for over three hours. He contacted the Tenant to remind her of the recommended social distancing guidelines and he stated that the Tenant responded with a cavalier and indifferent attitude to the seriousness of her actions, and she hung up on him. He advised that there have been no further incidents since this occurrence. He stated that his concern is that he has observed her guest often interact with homeless people in the past and that this poses an increased risk to the residents of the building of potentially contracting the COVID virus. This would be especially dangerous as the building is essentially a care home.

The Tenant advised that she had been sick with bronchitis in February 2020 and her friend contacted her asking her if she needed any help. She stated that her friend dropped off groceries and other necessary items and they maintained a distance of six feet apart from each other at all times. She stated that she apologized to the Landlord, but she was ill and unable to get these items for herself. She advised that due to her illness, she had not left her rental unit in quite some time and had not seen the notices posted in the building. However, she has not had anyone visit her since this one incident.

### Analysis

Section 56 of the *Act* establishes the grounds for a Landlord to make an Application requesting an early end to a tenancy and the issuance of an Order of Possession. 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.*

When reviewing the totality of the evidence before me, I understand the concerns of the Landlord and I also understand that all parties have a social and moral responsibility to work together and act in a manner that takes into account everyone's health and safety amid this pandemic. During this unprecedented time, there are no correct ways to act or behave as there are too many variables to take into account when attempting to live in a time where every party is attempting to do the best that they can. While I acknowledge the Landlord's concern for the safety of all of the residents of the building, I must also weigh the Tenant's testimony that she also may need assistance in having essential items delivered to her if she is unable to leave her rental unit. However, I also find it important to note that in this unprecedented time, everyone must use their best judgement and consider not only themselves, but how their actions may impact the health, safety, and lives of others. While I do accept that the Tenant may have found it necessary to have a friend deliver her groceries and other essential items, I question her judgement in having her friend stay over in the rental unit for a substantial amount of time when the consideration of the welfare of humanity as a whole must take priority over a needless social visit.

However, while the Tenant's actions of entertaining a guest may have been misguided and ill-advised, the undisputed evidence is that this happened one time and has not occurred since. As such, I do not find that the Landlord has provided any persuasive or compelling documentary evidence to support justification for an early end of tenancy. As the burden of proof on an early end of tenancy Application is substantially higher than that of an Application for an Order of Possession for Cause, based on what was presented before me, I am not satisfied that the Landlord has substantiated that the Tenant has engaged in behaviours that "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 for cause" to take effect.

Under the circumstances described, I do not find that the Landlord has provided sufficient evidence to warrant ending this tenancy early. As such, I find that the Landlord is not entitled to an Order of Possession, and I dismiss this Application in its entirety.

Again, I must stress that it is incumbent on both parties to work together through this crisis, and I urge the parties to make sensible decisions about their actions that take into consideration the devastating impact those decisions may have on the lives of not only

themselves, but others as well. While I am satisfied that this was a one-time occurrence, based on the affirmed testimony, the Tenant is strongly cautioned that she is on formal notice that the continuation of any questionable actions and behaviours, or any future disregard for the safety of others will jeopardize her tenancy.

As the Landlord was not successful in these claims, I find that the Landlord is not entitled to recover the \$100.00 filing fee paid for this Application.

### Conclusion

Based on the above, I dismiss the Landlord's Application without leave to reapply.

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 29, 2020

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Residential Tenancy Branch