



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET

### 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 due to health or safety reasons under section 56 of the Act.

The landlord attended the teleconference hearing and gave affirmed testimony and was 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. Words utilizing the singular shall also include the plural and vice versa where the context requires.

As the tenants did not attend the hearing, service of the Notice of Dispute Resolution Proceeding dated July 29, 2020 (Notice of Hearing), application and documentary evidence were considered. The landlord testified that the Notice of Hearing, application and documentary evidence were served by registered mail on July 29, 2020, with one package for each tenant listed on the tenancy agreement. The landlord provided 2 registered mail tracking numbers, both of which have been included on the Style of Cause for ease of reference. According to the online Canada Post tracking website, both packages were delivered on July 31, 2020. Given the above, I find that both tenants were served as of July 31, 2020 as per the Canada Post tracking information.

As neither tenant attended the hearing, I find that this matter is unopposed by the tenants.

### Preliminary and Procedural Matters

The landlord stated that although the tenants advised them that they will be vacating the rental unit, to date, the tenants have failed to return the rental unit keys. As a result, the landlord is seeking an order of possession.

The landlord confirmed the email addresses for all parties at the outset of the hearing and stated that they understood that the decision would be emailed to the parties. The landlord was also advised that the order of possession would be emailed to the landlord, which must be served on the tenants.

### Issue to be Decided

- Is the landlord entitled to end the tenancy early and obtain an order of possession under section 56 of the Act for health or safety reasons?

### Background and Evidence

The landlord testified that the tenancy began on September 1, 2019 and that monthly rent is \$1,285.00. A copy of the tenancy agreement was submitted in evidence.

The landlord referred to a video submitted in evidence, which shows the tenant enter the building with a large rottweiler dog and then the tenant immediately dropped the leash without looking to check their mailbox. The video then shows the large rottweiler dog attack another small dog and their owner, and that the smaller dog was being held by their owner on leash and that the tenant could not quickly gain control of their large rottweiler. The landlord also stated that the tenant's claim that the dog is a service dog is not true as the dog has no vest to support they are a service dog and is vicious.

In addition, the landlord presented complaint letters from other tenants in the building about the tenant subjecting them to verbal abuse.

The landlord is seeking to end the tenancy under section 56 of the Act as a result.

### Analysis

Based on the undisputed testimony and undisputed documentary evidence provided during the hearing, and on a balance of probabilities, I find and I am satisfied that the tenants have seriously jeopardized the health or safety or a lawful right or interest of

another occupant. I find the tenant's act of letting go of the leash of their rottweiler to be negligent and I agree with the landlord that the rottweiler appears to be vicious and not a service dog as there was no vest on the dog and it was clearly attacking another smaller dog and their owner in the video.

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 tenant and the documentary evidence before me to support that the tenant was negligent with their large dog and that by doing so, negatively impacted the health and safety of another occupant and their dog. Furthermore, I find that dropping the leash of a large breed dog without looking back to check for others for safety purposes to be unreasonable. 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 service on the tenants. I find the tenancy ended the date of this hearing, **August 27, 2020**, pursuant to section 62(3) of the Act.

### Conclusion

The landlord's application is successful. The tenancy ended this date, August 27, 2020.

The landlord is granted an order of possession effective two (2) days after service on the tenants. This decision will be emailed to the parties. The order of possession will be emailed to the landlord for service on the tenants. 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: August 27, 2020

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Residential Tenancy Branch