



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding LAMPLIGHTER APARMENTS 1034076 BC LTD. 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 end to this tenancy and an order of possession pursuant to section 56;
- authorization to recover its filing fee for this application from the tenant pursuant to section 72.

The landlord's agent (the landlord) attended the hearing via conference call and provided undisputed affirmed testimony. The tenants did not attend or submit any documentary evidence. The landlord stated that the tenants were served with the notice of an expedited hearing package and the submitted documentary on August 21, 2020 by posting it to the rental unit door. The landlord has submitted a completed proof of service document and provided a photograph of the package posted to the door as confirmation.

I accept the undisputed affirmed evidence of the landlord and find that the tenants were properly served as per sections 88 and 89 of the Act. Despite not attending, I find that the tenants are deemed served as per section 90 of the Act on August 24, 2020.

### Issue(s) to be Decided

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

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on February 1, 2020 on a fixed term tenancy ending on January 31, 2021 and then thereafter on a month-to-month basis or another fixed term as per the submitted copy of the signed tenancy agreement dated January 30, 2020. The monthly rent is \$1,250.00 payable on the 1<sup>st</sup> day of each month. A security deposit of \$625.00 was paid on January 30, 2020.

The landlord seeks an early end to the tenancy and an order of possession as the tenant poses an immediate and severe risk to the rental property.

The landlord provided written details which states,

V.T. who resides in A-103, son P. has set a fire in the garbage bin in the underground parking area of the A south entrance.

The landlord clarified that the tenant's son, P. set fire a fire in a garbage container in the underground parking garage. The landlord has submitted two security videos of the incident showing the tenant's son setting the fire. The landlord confirmed that the tenant's son is well known to her due to previous contacts. The landlord stated that a review of the security videos show the tenant going to the rental unit after setting the fire and returning after changing his clothes. The landlord confirmed that the tenant's son, P. was arrested by the police and released on bail but was given permission to reside at the rental property by the courts. The landlord stated that only the actions of another tenant leaving for work prevented a serious fire.

The landlord also stated that a subsequent general inspection of the rental unit was made in which the landlord discovered burnt flooring throughout the entire rental unit. The landlord stated that the tenant was aware of her son's actions and made no effort to safeguard the rental property. The landlord stated that both the tenant and her son pose an immediate and severe risk and needs an immediate end to the tenancy.

### Analysis

In accordance with section 56 of the Act, in receipt of a landlord's application to end a tenancy early and obtain an order of possession, an arbitrator may grant the application where the tenant has:

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

In addition to showing at least one of the above-noted causes, the landlord must also show why it would be unreasonable or unfair to the landlord to wait for a 1 Month Notice to take effect.

A one month notice to end tenancy for cause is the standard method of ending a tenancy for cause. An order to end tenancy early pursuant to section 56 requires that there be particular circumstances that lend urgency to the cause for ending the tenancy. That is the reason for the requirement that the landlord show it would be "unreasonable or unfair" to wait for a cause notice to take effect.

In this case, I accept the undisputed affirmed evidence of the landlord and find that the tenant's son has engaged in illegal activity by setting a fire in the garbage bin in the underground parking area. This is confirmed in the video files provided by the landlord. I also accept the landlord's photographic evidence of the rental unit floor burnt in each of the rooms of the rental unit. As such, I also find that the tenants were aware of the dangerous actions of the tenant's son, P. placing the safety of all residents of this property at risk. On this basis, I find that the tenants pose an immediate threat to the rental property and it would be unreasonable to wait for a notice to take effect. The landlord is granted an order of possession to be effective 2 days after it is served upon the tenants.

The landlord having been successful is also entitled to recovery of the \$100.00 filing fee.

### Conclusion

The landlord is granted an early end to the tenancy and an order of possession.

The landlord is granted a monetary order for \$100.00.

These orders must be served upon the tenants. Should the tenants fail to comply with these orders, these orders may be filed in the Supreme Court of British Columbia and the Small Claims Division of the Provincial Court of British Columbia and enforced as orders of those Courts.

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 03, 2020

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Residential Tenancy Branch