



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Victoria Cool Aid Society  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ET

### Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding the above-noted tenancy. The landlord applied for an order for early termination of a tenancy, pursuant to section 56 of the Act.

I left the teleconference connection open until 2:13 P.M. to enable the tenant to call into this teleconference hearing scheduled for 1:30 P.M. The tenant did not attend the hearing. The landlord, represented by managers TF and KV (the landlord), 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 and I were the only ones who had called into this teleconference.

I accept the landlord's testimony that the tenant was served with the application and evidence (the materials) by attaching a copy to the tenant's rental unit front door on October 09, 2020 at 2:59 P.M., in accordance with section 89(2)(d) of the Act. A witnessed proof of service (RTB form 9) was submitted into evidence.

Section 90 of the *Act* provides that a document served in accordance with Section 89 of the Act is deemed to be received if given or served by attaching to a door on the 3th day after it is attached. Given the landlord's testimony and RTB form 9, the tenant is deemed to have received the materials on October 12, 2020, in accordance with section 90(c) of the *Act*.

Rule of Procedure 7.3 allows a hearing to continue in the absence of the respondent.

### Issue to be Decided

Is the landlord entitled to an order for early termination of a tenancy?

### Background and Evidence

While I have turned my mind to the evidence and the testimony of the attending party, not all details of the submission and arguments are reproduced here. The relevant and important aspects of the landlord's claim and my findings are set out below. I explained rule 7.4 to the attending party; it is their obligation to present the evidence to substantiate the application.

The landlord stated the tenancy started in August 2017. Monthly rent in the amount of \$375.00 is due on the first day of the month. The landlord collected and holds the security deposit of \$375.00. The tenancy agreement was submitted into evidence.

The rental building offers support for the tenants, such as filling forms for social benefits and liaising with the social support workers that further assist the tenants. However, all the tenants live independently.

The landlord affirmed since August 04, 2020 the tenant has been constantly acting aggressive towards the other tenants and the landlord's agents. The landlord submitted into evidence 14 reports detailing incidents that happened between August 04, 2020 and September 30, 2020.

On August 09, 12 and 14, 2020 the tenant threatened other tenants in the rental building. On August 18, 2020 the tenant threw a food container against a landlord agent and started punching and kicking the wall and the elevator. On August 25, 2020 the tenant was unconscious in the rental building entrance lobby. When the paramedics arrived, he was aggressive and belligerent.

On September 20, 2020 the tenant used a scissors to threat another tenant. On September 21, 2020 the tenant repeatedly hit the electrical panel in his rental unit and tried to unscrew the electrical socket.

On September 28, 2020 the tenant set fire to his rental unit. As the rental building was evacuated, a landlord agent entered the tenant's rental unit and found the tenant standing by the fire in the kitchen. The tenant refused to leave the rental unit. The next day a new fire happened in the tenant's rental unit. The landlord's agent found paper burning on the tenant's stove, not in a pan, and the tenant was staring at the fire. The police and the firefighters attended on both days and the rental building was evacuated. A police file number was provided (the number is on the front page of this decision). The

tenant did not explain why he set fire to his rental unit on both days. On September 30, 2020 the tenant tried to assault a landlord agent with a broken pencil.

The landlord agents always communicated with the tenant to offer him further help after each of the incidents above mentioned. A one month notice to end tenancy for cause was not served because the rental building is a supportive rental building, so the landlord's agents always try to help the tenants as much as possible. On September 28, 2020 the landlord decided it was necessary to apply for an order for early termination of a tenancy, as the fire caused by the tenant seriously jeopardized the health and safety of the landlord and other tenants, as well as put the landlord's property at significant risk.

The landlord stated she needed nine days from September 28, 2020 to gather the documentary evidence submitted with this application. The landlord is understaffed, there are over 500 tenants with mental health and drug addiction issues, and the landlord has been double staffing this building as a safety precaution because of the tenant's threats.

### Analysis

Pursuant to Rule of Procedure 6.6, the landlord has the onus of proof to establish, on a balance of probabilities, the reasons to end the tenancy early. This means that the landlord must prove, more likely than not, that the facts stated on the application happened and it would be unreasonable, or unfair to the landlord or other tenants, to wait for a notice to end the tenancy under section 47 [landlord's notice: cause] to take effect.

Section 56 (2) of the Act states:

(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.

Residential Tenancy Branch Policy Guideline 51 states:

Applications to end a tenancy early are for very serious breaches only and require sufficient supporting evidence. An example of a serious breach is a tenant or their guest pepper spraying a landlord or caretaker.

**The landlord must provide sufficient evidence to prove the tenant or their guest committed the serious breach, and the director must also be satisfied that it would be unreasonable or unfair to the landlord or other occupants of the property or park to wait for a Notice to End Tenancy for cause to take effect (at least one month).**

**Without sufficient evidence the arbitrator will dismiss the application.** Evidence that could support an application to end a tenancy early includes photographs, witness statements, audio or video recordings, **information from the police including testimony**, and written communications. Examples include:

- A witness statement describing violent acts committed by a tenant against a landlord;
- Testimony from a police officer describing the actions of a tenant who has repeatedly and extensively vandalized the landlord's property;
- Photographs showing extraordinary damage caused by a tenant producing illegal narcotics in a rental unit; or
- Video and audio recordings that clearly identify a tenant physically, sexually or verbally harassing another tenant.

(emphasis added)

Based on the landlord's convincing and coherent testimony offered by 2 agents, 14 reports and a police file number, I find the tenant intentionally started fires inside his rental unit on September 28 and 29, 2020. I find that pursuant to section 56(2)(a)(ii) and (iii) of the Act, the tenant's behaviour seriously jeopardized the health and safety of the landlord and other tenants and put the landlord's property at significant risk.

If the landlord issued a notice for cause under section 47(1)(d), the landlord could not end the tenancy earlier than one month after the date the notice is received by the tenant. Due to the significant risk the tenant presents to life and property when he starts fires in the rental unit, I find that pursuant to section 56(2)(b), it would be unreasonable for the landlord to be wait to end the tenancy by issuing a notice for cause.

Therefore, I find the tenancy ends today and grant an order of possession effective two days after service on the tenant, pursuant to section 56(2)(a)(ii) and (iii) of the Act.

### Conclusion

I order the tenancy ends today and grant an order of possession to the landlord effective **two days after service of this order**. 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.

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: October 30, 2020

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Residential Tenancy Branch