



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **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; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:45 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn 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. During the hearing, I also confirmed from the online teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord testified that they issued a 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) to the tenant on August 29, 2020, and the building manager handed a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) to the tenant on September 18, 2020. The landlord said that the tenant applied to cancel the first of these notices on September 4 or 5, 2020. The landlord said that they applied for an Order of Possession based on the 10 Day Notice and a monetary award to be heard alongside the tenant's application on November 5, 2020.

The landlord provided sworn testimony supported by written evidence that they served the dispute resolution hearing package and written evidence to the tenant on September 18, 2020. The landlord entered into written evidence the tenant's written

confirmation that they were handed the above materials on September 18, 2020. On this basis, I find that the tenant was served with the dispute resolution hearing package and written evidence in accordance with sections 88 and 89 of the *Act*.

#### Issues(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 for this application from the tenant?

#### Background and Evidence

On August 14, 2020, the parties signed a fixed term Residential Tenancy Agreement (the Agreement) that was scheduled to allow the tenant to reside in this rental unit from August 15, 2020 until February 15, 2021. Monthly rent of \$1,700.00, is payable in advance on the 15<sup>th</sup> of each month. The tenant is also responsible for paying for utilities in this rental unit. The landlord continues to hold the tenant's \$850.00 security deposit paid on August 15, 2020.

The landlord said that they issued the 10 Day Notice because the tenant failed to pay rent for September 2020. The landlord also said that the tenant has failed to pay anything to the landlord since the 10 Day Notice was issued.

The landlord provided copies of photographs and written evidence in the form of text messages to confirm their assertion that the tenant appears to have moved out of the rental unit between October 13 and 15, 2020. Although the tenant does not appear to be living in the rental unit, the tenant has not returned the keys to the rental unit or the fob enabling them to access this multi-storey building. The landlord maintained that the tenant has refused to fully surrender possession of the rental unit until the landlord has an Order of Possession issued by the Residential Tenancy Branch.

The landlord included in their written evidence their assertion that the tenant had threatened to fight the landlord a number of times. In a September 7, 2020 incident, the landlord claimed that the tenant also threatened to break the landlord's teeth. The landlord said that since they had video evidence of the September 7<sup>th</sup> threat, they had submitted this evidence to the police who were looking into this matter. Under these circumstances, the landlord applied for an early end to this tenancy because the landlord maintained that there were valid safety concerns arising out of any continuation of this tenancy.

## 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.*

Based on the undisputed written evidence and sworn testimony of the landlord, I find that sufficient evidence has been provided to warrant an end to this tenancy for the reasons outlined in the first portion of section 56, as outlined above. I find that the tenant has seriously jeopardized the health and safety of the landlord.

I furthermore find that the landlord has established that it would be unreasonable and unfair to the landlord to allow this tenancy to continue. There is undisputed sworn testimony that the tenant has threatened the landlord and that this situation cannot continue until such time as the landlord is able to obtain an end to this tenancy on the basis of the 1 Month Notice for cause, issued pursuant to section 47 of the *Act*. The safety concerns presented by the tenant's actions and behaviours are sufficiently serious to justify the landlord's application for an early end to this tenancy. For these reasons, I allow the landlord's application to end this tenancy early. Since it would

appear that the tenant has already abandoned the rental unit, despite not returning the keys to enter the rental unit or the fob allowing access to this building, I issue a 24 hour Order of Possession to the landlord.

As the landlord has been successful in this application, I allow the landlord to recover their \$100.00 filing fee from the tenant. To implement this monetary award, I allow the landlord to retain \$100.00 from the tenant's security deposit.

### Conclusion

I allow the landlord's application to end this tenancy early. I grant an Order of Possession to the landlord effective **24 hours after service of this Order** 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.

I order the landlord to retain \$100.00 from the security deposit for this tenancy as a means of recovering the landlord's filing fee for this application. The remaining value of the security deposit is hereby reduced from \$850.00 to \$750.00.

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 20, 2020

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Residential Tenancy Branch