



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Sanford Housing Society  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ET

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The Landlord applied for an early end to the tenancy, pursuant to section 56 of the *Residential Tenancy Act* (the "Act").

The Landlord was represented at the hearing by two staff members, and legal counsel. The Tenant also attended the hearing. The Landlord sent the Notice of Hearing to the Tenant on October 30, 2020, by registered mail. The Tenant confirmed receipt of this package. The Landlord also sent, by registered mail, two evidence packages, each containing photocopied documents, as well as a USB stick with video evidence. The Tenant confirmed that he got both of these packages, on November 4, and November 16, 2020. The Tenant was able to view the documents, but could not open the video files because he did not have a computer. The Landlord stated he never followed up and specifically asked the Tenant if he could gain access to the files on the USB stick.

I turn to the following Rule of Procedure:

### **3.10.5 Confirmation of access to digital evidence**

*The format of digital evidence must be accessible to all parties. For evidence submitted through the Online Application for Dispute Resolution, the system will only upload evidence in accepted formats or within the file size limit in accordance with Rule 3.0.2.*

*Before the hearing, a party providing digital evidence to the other party must confirm that the other party has playback equipment or is otherwise able to gain access to the evidence.*

*Before the hearing, a party providing digital evidence to the Residential Tenancy Branch directly or through a Service BC Office must confirm that the Residential Tenancy Branch has playback equipment or is otherwise able to gain access to the evidence. If a party or the Residential Tenancy Branch is unable to access the digital evidence, the arbitrator may determine that the digital evidence will not be considered.*

*If a party asks another party about their ability to gain access to a particular format, device or platform, the other party must reply as soon as possible, and in any event so that all parties have seven days (or two days for an expedited hearing under Rule 10), with full access to the evidence and the party submitting and serving digital evidence can meet the requirements for filing and service established in Rules 3.1, 3.2, 3.14 and 3.15.*

*Regardless of how evidence is accessed during a hearing, the party providing digital evidence must provide each respondent with a copy of the evidence on a memory stick, compact disk or DVD for its permanent files.*

There is no evidence showing that the Landlord attempted to confirm that the Tenant was able to read the evidence contained on the drive, or that they were able to gain access to it. As such, I find the Landlord failed to serve the digital evidence in accordance with the Rules of Procedure. The Landlord should have taken steps to ensure and confirm the digital evidence was accessible. I find the Landlord's digital evidence is not admissible, as it was not properly served in accordance with the Rules of Procedure (3.10.5).

The Tenant did not submit any documentary evidence.

Both parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. 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 end the tenancy early and obtain an Order of Possession?

### Background and Evidence

Both parties provided a substantial amount of conflicting testimony during the hearing. However, in this review, I will only address the facts and evidence which underpin my findings and will only summarize and speak to points which are essential in order to determine the issue identified above. Not all documentary evidence and testimony will be summarized and addressed in full, unless it is pertinent to my findings.

The Landlord stated that the relationship with the Tenants has degraded significantly in the past few months. The Landlord noted that they operate a supportive housing facility and provide housing for people who are struggling with homelessness and mental health issues. The Landlord stated that they have strict guest policies and a “staffed” front desk to help with any compliance/support issues in the building. The Landlord stated that the Tenant has a long history of bringing underage women into the building, and the police have been called numerous times. However, the Landlord pointed to the most recent incident on October 29/30, 2020, as the most critical and severe incident to date.

More specifically, the Landlord stated that they have guest policies which prohibit Tenants in the building from having guests under the age of 19, and all guests must sign into the building upon arrival. On October 29/30, the Landlord stated that one of the staff members at the front desk queried one of the Tenant’s guests upon her arrival, and was met with extreme hostility from the Tenant. The Landlord stated that the Tenant drove his wheelchair into the front desk door, tried to ram the door open, then uttered death threats to the staff members. The Landlord had a witness attend who was working that night, and directly heard the Tenant say he would slit the throats of the staff, beat them with his metal pipe (which he pulled out and waved at the staff). The witness also noted that the Tenant continued to try to break down the door to the desk, and verbally threaten/berate the female employees. The Landlord stated that the police eventually came and confiscated his pipe weapon and warned him.

The Tenant was extremely volatile in the hearing, and would not follow instructions about waiting until it was his turn to speak. As a result, the Tenant had to be put on mute while the Landlord presented their case. The Tenant was provided an equal opportunity to speak after the Landlord finished.

The Tenant largely focused his time on explaining the hardships he has endured. The Tenant spoke to the fact he has a spinal injury, brain damage, and needs a lot of help

with many aspects of his life. The Tenant admitted to making mistakes, but feels he needs help and more support. The Tenant also stated that “nothing happened” on October 29/30, and says he was just trying to help others (his guest). The Tenant spoke to some of his concerns around his upcoming surgeries and health challenges.

### Analysis

In this review, I will not attempt to resolve all evidentiary conflicts, and will focus on evidence and testimony as it relates directly to my findings with respect to whether there are sufficient grounds to end the tenancy.

An early end of tenancy is an expedited and unusual remedy under the Act and is only available to the landlord when the circumstances of a tenancy are such that it is unreasonable or unfair to a landlord or other residents to wait for a notice to end tenancy to take effect, such as a notice given under Section 47 of the Act for cause. Therefore, in this case the Landlord bears a strict burden to prove with sufficient evidence that the tenancy should end early Section 56 of the Act.

An application for an early end of tenancy under section 56 of the Act is reserved for situations where a Tenant poses an immediate and severe risk to the rental property, other occupants, or the Landlord. An application for an early end of tenancy is such that a Landlord does not have to follow the due process of ending a tenancy by issuing a notice to end tenancy which gives the Tenant the right to dispute the Notice by applying for dispute resolution.

Under section 56 of the Act, the director may end a tenancy and issue an order of possession only if satisfied, there is sufficient cause; and, 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 to take effect.

Regarding the incident on or around October 30, 2020, the Landlord has stated that the Tenant made death threats to employees at the building (front desk staff), pulled a weapon in a threatening manner, uttered insults, and physically attempted to break into the safe area behind the front staff desk. Although the Tenant has stated “nothing happened”, I do not find he has provided a very compelling explanation as to what occurred. I find the Landlord, along with their witness/staff member, has provided a more reliable and compelling account as to what happened on October 30, 2020. I have placed more weight on the Landlord’s version of events, and I find it more likely than not that the Tenant was verbally abusive, that he uttered threats, physically wielded a pipe

to intimidate staff, and physically attempted to breach the desk door, which is in place to safeguard staff. I find the Tenant's actions on or around October 30, 2020, were egregious and warrant an early end to the tenancy. I accept that the staff at the building are worried for their safety given the Tenant's extreme and repeated aggressive threats.

I find the Tenant's behaviour is significant and severe enough as to warrant an early end to the tenancy, pursuant to section 56 of the Act. As such, I find the Landlord is entitled to an order of possession.

### Conclusion

The Landlord has met the burden to prove the tenancy should end early.

The Landlord is granted an order of possession effective **two days after service** on the Tenant. This order must be served on the Tenant. If the Tenant fails to comply with this order the Landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

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: November 23, 2020

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Residential Tenancy Branch