



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Code: ET

### Introduction

The landlord applied for orders under section 56 of the *Residential Tenancy Act* ("Act").

Only the landlord's representatives and advocate ("landlord") attended the hearing on February 25, 2021, which was held by teleconference. The tenant did not attend.

The landlord gave evidence that they served the Notice of Dispute Resolution Proceeding package on the tenant, in person, on February 10, 2021 at 11:00 AM. The tenant was being arrested by the police at the time and was in handcuffs. She was handed the Notice of Dispute Resolution Proceeding package, which was then taken by the arresting officer. A copy of a completed two-page *Proof of Service* was submitted into evidence, along with a copy of the police officer's business card

Based on this evidence I find that the tenant was served with the Notice of Dispute Resolution Proceeding in compliance with the Act and the *Rules of Procedure*.

### Issue to be Decided

Is the landlord entitled to orders under section 56 of the Act?

### Background and Evidence

I have only reviewed and considered oral and documentary evidence meeting the requirements of the *Rules of Procedure*, to which I was referred, and which was relevant to determining the issue in the application. Only relevant evidence needed to explain my decision is reproduced below.

On October 22, 2020 the municipal fire department attended to the rental unit (which is one of several rental units in the apartment building), conducted an inspection, and issued an Order. A copy of the Order was submitted into evidence, and it ordered the tenant to

1. Reduce the amount of combustibles within room by 75%, Fire By-law 12472 Div C, Part 1, Sentence 1.4..2.16.(1);
2. Clear and maintain means of egress from floor area, Fire By-law 12472 Div B, Sentence 2.4.1.1.(2).
3. Comply with all other provisions of Vancouver Fire Bylaw 12472.

The Order indicated that it was to be complied with immediately. However, on January 11, 2021, upon inspecting the rental unit, the landlord determined that the tenant had clearly not complied with the fire department's Order.

As evidenced by several photographs taken of the interior of the rental unit, the tenant has accumulated a more-than-significant amount of combustibles. It was difficult for the landlord to actually enter and exit the rental unit due to the number of items. The items were described as clutter and "garbage on top of garbage." The landlord argued that it would be difficult if not almost impossible for the fire department to enter and egress the property should they be required to extract someone during a fire.

### Analysis

Section 56 (1) of the Act permits a landlord to 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, and (b) granting the landlord an order of possession in respect of the rental unit.

In order for me to grant an order under section 56 (1), I must be satisfied that

- (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.

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

In this case, the evidence—the most conclusive of which is the fire department's Order and the photographs taken in January 2021—leads me to conclude that the tenant has, and continues to, seriously jeopardize the safety of dozens of other occupants of the residential property. Indeed, some of the occupants are families with children.

Further, the evidence before me leads me to find that the tenant's ongoing refusal to comply with the Order puts the landlord's property at significant risk. Given that the tenant has had more than enough time to remedy the health and safety hazards outlined in the fire department's order, I find that it would be both unreasonable and unfair to the landlord and the occupants of the residential property to wait for a notice to end the tenancy under section 47 of the Act.

Taking into consideration all the undisputed oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving their application for orders under section 56 of the Act.

Conclusion

Pursuant to section 56 of the Act, I HEREBY

1. ORDER that the tenancy is ended effective immediately; and,
2. GRANT the landlord an order of possession, which must be served on the tenant and which is effective two (2) days from the date of service. The order may be filed in and enforced as an order of the Supreme Court of British Columbia.

This decision is final and binding, except where otherwise permitted under the Act, and is made on authority delegated to me under section 9.1(1) of the Act.

Dated: February 25, 2021

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Residential Tenancy Branch