



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ET

### Introduction

The landlord filed an Application for Dispute Resolution on February 8, 2021 seeking an order to end the tenancy on the basis that the tenant poses an immediate and severe risk to the property, other occupants, or the landlord. The matter proceeded by way of a conference call hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on March 8, 2021. Both parties attended the conference call hearing and I explained the process and provided each party the opportunity to ask questions.

At the start of the hearing, both parties confirmed they received the prepared documentary evidence of the other. On this basis, the hearing proceeded after a brief pause while the tenant entered the call on their second attempt at dialling in.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession that ends the tenancy for cause and without notice by s. 56 of the *Act*?

### Background and Evidence

I have reviewed all oral and written evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this section. After each party affirmed an oath, I gave them the opportunity to speak to the issue. Their oral testimony stands as evidence in this matter.

Both parties confirmed details of the tenancy agreement and a copy of that was in the evidence. The tenant pays a rent of \$825 per month on the first of each month. This

tenancy started in September 2018 and as of the date of this hearing the tenant still occupied the rental unit.

The landlord applies for an end of tenancy based on the “immediate and severe risk to the rental property, other occupants or the landlord.” This is for separate incidents that they outlined in their documentary evidence. This includes:

- complaints of excessive noise – loud closing of doors and banging on walls – throughout 2018 through to present
- acting in an aggressive manner toward other tenants for use of the fans in their units
- yelling in their own suite to the degree that it disturbs other residents
- recordings by one neighbour of “outright loud banging” that continued through the evening
- recordings of loud shoes noise within the tenant’s own unit to the level where it is audible by other tenants and disturbing them.

As set out in the landlord’s email to the owner, another tenant advised the landlord of this tenant putting their hands on another tenant, grabbing their sweater. There was another incident of the tenant here knocking over a person in the hallway using a walker. There is also an account of the tenant here “screaming in [their] apartment in the middle of the night and early morning.” The landlord’s own account in this mail is that they tried to assess the situation with the tenant here, to ascertain if there was some resolution to the problem. The tenant here met that landlord with “yelling that the upstairs neighbour was using radio waves or electronic waves to torture [them]”. The landlord set out their concern with the tenant’s conduct affecting the health of others in the building, those who are “vulnerable.” The landlord described the tenant as “very loud, aggressive and did not respect personal space.”

Another message from a resident to the landlord dated November 29, 2020 sets out their witnessing of an incident where another resident called this resident at 2:00 a.m., “worried about the pandemonium”. Evidently, a separate tenant in the unit above the tenant here was retaliating by generating noise and banging of their own, which led the tenant here to double their efforts with yelling and banging.

The landlord’s evidence also contains their account of contacting the “Access and Assessment Centre” who were able to cursorily advise of assistance available to the tenant here. This is in regard to the landlord’s and other residents’ concerns for the tenant’s mental health. By late December 10, 2020, the landlord served a One-Month

Notice to End Tenancy for Cause, with the move-out date set at January 31, 2020. The tenant thereafter formally challenged this eviction notice as well.

Finally, the landlord's record contains their email to the owner to advise of the tenant's yelling at the neighbour. These are accusations that this neighbour is using some means of electronic transmission to interfere with the tenant's breathing. This is increasing from "1 or 2 times/week to 3+ times per week". This is from a neighbour that has legitimate and serious ongoing medical needs. There is also an excerpt from an email that sets out this neighbour would be needing a hotel stay to be away from the tenant. One comment from the neighbour sets out that matters were escalating, with the TT "slamming bed and slamming . . . shower telling [the neighbour] you can't hide forever."

The landlord also provided correspondence from the tenant to them from 2020. In these pieces, the tenant sets out how since the start of their tenancy the other residents' fans caused excessive heat and caused vibration; this in turn causes their own health issues. This is also the cause of other "chronic health issues" with other building residents. They have strong reason to deny all residents' complaints – these are "manipulative representations." Additionally, another resident is undertaking surveillance of the tenant here, with access to their computer, headphones, and cell phone. The tenant also surmises that another resident is attacking them with radio frequency remote devices.

Given these experiences, the tenant describes what is happening to their own body as "torture." There are miscellaneous other conspiracy theories in this written account from the tenant. Ultimately, they direct the source of all this difficulty to the landlord here, and request for the removal of the landlord from any decision-making position. They also refer to other tenants and the landlord as sociopaths and psychopaths.

The tenant's own written submission for this hearing sets out with detail the points they have raised to the landlord in the past. They outline a history of how they are being harassed since 2018, with reference to their own complaints to the landlord. This includes a written record with dates from 2018 of others' fans in the building running non-stop.

There is a letter from this tenant to other residents in the building, dated April 3, 2020. This instructs them to not knock on the tenant's own unit door, and lists conditions of noise incidents when they are not to be disturbed by others. For example, this is "when someone is pretending cleaning by banging aggressively wooden piece on the floor." A

final message on this letter is addressed to “the banging and blasting person depriving me of sleep day after day, every day: You can’t hide forever behind lies and manipulations. . .Horrible people, obsessive, paranoid. Willing to justify any means.”

The tenant had the opportunity to present oral testimony in the hearing. They expounded on the neighbours’ manipulative behaviour in league with the landlord. They also gave more detail on how specific issues of radio and microwave frequency have impacted their health. This is “torture”, and others’ indifference or contribution to the problem is “harassment” and “defamation”.

The tenant described how the police were involved and made the referral to mental health services. This was inconclusive, and on direct questioning the tenant replied that they were not able to visit a doctor concerning these problems because they could not obtain this doctor-focused attention. There is “no reliable medical service in place.”

The tenant acknowledged the incident with the other tenant which resulted in direct physical contact, and the pushing of another resident. When questioned on this in the hearing, they state they were “only defending against harassment” and replied that this was “a natural reaction to pain”.

### Analysis

The *Act* s.56 provides that a tenancy may end earlier than a normal prescribed period if one or more of the outlined conditions applies. These conditions reflect dire or urgent circumstances. The legislation regarding an order of possession reads as follows:

- 56(1) A landlord may 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 tenancy were given under s. 47 [*landlords’ notice: cause*], and
  - (b) granting the landlords an order of possession in respect of the rental unit.

The *Act* s.56(2) sets out two criteria. First, the landlords must prove the cause for issuing the Notice. Second, the evidence must show it would be unreasonable or unfair to the landlords to wait for a set-period Notice to End Tenancy to take effect under a different section of the *Act*. The determination of cause considers the following situations of immediate and severe risk:

- (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 landlords of the residential property;
- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlords or another occupant;
- (iii) put the landlords' property at significant risk;

I have carefully considered the evidence of the landlord concerning the conduct of the tenant and the incidents as set out in the evidence.

I find the landlord here presented sufficient evidence to show the tenant was the cause of interference and disturbance to others in the building.

Most importantly, there is evidence that the tenant laid hands on another resident and pushed another tenant. In the hearing, the tenant did not strictly deny this when questioned directly, and gave an answer that these were defensive acts, as a natural reaction to their pain.

Given the visit by police to attend to matters involving the tenant, I find there is a high degree of disturbance to others. In the hearing the tenant expressed misgivings about the officers' own way of handling their pleas to them; I find this increases the likelihood of the tenant relying on their own means to resolve what they perceive are immediate threats to them.

Regarding the perception of pain, it is unknown what threshold the tenant has reached at this point. Given acts of a serious nature that have continued and apparently increased since late 2020, I find it likely this is reaching a crisis point for the tenant. This is clearly affecting other residents and the landlord.

The messaging from the tenant is also of serious concern. This refers to other residents and the landlord as sociopaths and psychopaths. The context in which it is written is that which sets out what the tenant sees as miscellaneous attacks of a physical nature. I find it also likely this will continue a pattern of interference and disturbance to others. There is also a palpable presence of a concern for others' safety when actions from the tenant could be retaliatory in nature. Given the evidence of yelling, banging and confrontation that is in response to perceived harm, I find this is a legitimate concern of an urgent nature from the landlord.

The evidence shows this pattern has continued since the start of the tenancy. Given my concern about the threshold reached, and the potential for more interference and disturbance, I find it would be unreasonable for the landlord to wait for the tenancy to

end within a set period. I find the landlord is within their rights to end the tenancy in this manner.

I find there is sufficient evidence to show the tenant was the cause of interference and disturbance to others. I find this is an action that is specified by s. 56(2) above, particularly subsections (a) (i), and to a somewhat lesser degree (a)(ii).

The evidence provided proves cause. I find it unreasonable for the landlord to wait for a set-period Notice to End Tenancy to take effect. Both these factors merit an expedited end to the tenancy. I so grant an Order of Possession in line with this rationale.

### Conclusion

For the reasons above, I grant an Order of Possession to the landlords effective 1:00 p.m. on March 23, 2021. The landlord must service this Order of Possession 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.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: March 11, 2021

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Residential Tenancy Branch