



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CAPITAL REGIONAL HOUSING  
CORPORATION and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ET FFL

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for an order to end the tenancy early and receive an order of possession due to health or safety reasons under section 56 of the Act and to recover the cost of the filing fee.

An agent for the landlord, KL (agent), a caretaker for the landlord, TW (caretaker), and a property manager for the landlord, KK (property manager) attended the teleconference hearing and gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me. The hearing process was explained and an opportunity to ask questions was provided to the agent. Words utilizing the singular shall also include the plural and vice versa where the context requires.

As the tenants did not attend the hearing, service of the Notice of Dispute Resolution Proceeding dated May 11, 2020 (Notice of Hearing), application and documentary evidence were considered. The agent testified that the Notice of Hearing, application and documentary evidence were served by posting one package for each tenant on their door on May 11, 2021 at 3:03 p.m. The agents stated that this service was witnessed by TW, who confirmed during the hearing that they witnessed MK post the two packages to the tenants' door as stated by the agent. Given the above, I find that both tenants were served as of May 11, 2021 as indicated above.

As neither tenant attended the hearing, I find that this matter is unopposed by the tenants.

### Preliminary and Procedural Matters

The landlord representatives were informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The landlord representatives were also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the landlord representatives were informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. None of the landlord representatives had any questions about my direction pursuant to RTB Rule 6.11.

In addition, the landlord representatives confirmed the respective email addresses for the parties at the outset of the hearing and stated that they understood that the decision and any applicable orders would be emailed to them. The decision only will be emailed to the tenants.

### Issues to be Decided

- Is the landlord entitled to end the tenancy early and obtain an order of possession under section 56 of the Act for health or safety reasons?
- If yes, is the landlord entitled to the recovery of the cost of the filing fee?

### Background and Evidence

The agent testified that the tenancy began on February 1, 2021 and that the tenants paid a security deposit of \$867.50 at the start of the tenancy, which the landlord continues to hold.

The agent presented photo evidence, which supports the agent's statement that the tenants removed a hard-wired rental unit smoke detector on April 20, 2021. The caretaker testified that on April 20, 2021, they could not locate the smoke detector inside the rental unit, so a new smoke detector was installed on the same date. The agent stated that the tenants were issued a breach letter and warned not to tamper with the smoke detectors again. On April 28, 2021, during an inspection of the rental unit, another smoke detector had been removed from the ceiling and is shown hanging in another photo dated April 28, 2021. The agent stated that although the rental unit is a

non-smoking unit, the landlord suspects that the tenants keep removing the smoke detectors so the tenants can smoke inside the rental unit.

The agent stated that this is a safety issue which puts all other tenants at risk and an order of possession is requested under section 56 of the Act.

### Analysis

Based on the undisputed testimony and undisputed documentary evidence provided during the hearing, and on a balance of probabilities, I find and I am satisfied that the tenants have seriously jeopardized the health or safety or a lawful right or interest of the landlord and another occupant and put the landlord's property at significant risk. I find the tenants' act of removing a smoke detector to be negligent and to cause a risk of undetected fire inside the rental building. I agree with the landlord that the tenancy should end based on section 56 of the Act as follows.

Section 56 of the Act applies and states:

#### **Application for order ending tenancy early**

**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 the tenancy were given under section 47 [*landlord's notice: cause*], and
- (b) granting the landlord an order of possession in respect of the rental unit.

(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.**

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

[emphasis added]

I am also satisfied that it would be unreasonable and unfair to the landlord and all other occupants of the building to wait for a notice to end tenancy under section 47 of the Act. I find the actions of the tenants and the documentary evidence before me to support that the tenants were negligent to purposely remove a smoke detector twice and that they have created an undue risk inside the rental unit, which is unreasonable. Therefore, pursuant to section 56 of the Act, I grant the landlord an order of possession for the rental unit effective not later than **two (2) days** after service on the tenants. I find the tenancy ended the date of this hearing, **May 25, 2021**, pursuant to section 62(3) of the Act.

Pursuant to section 38, 67 and 72 of the Act, I grant the landlord **\$100.00** from the tenants' security deposit in full satisfaction of the filing fee. Pursuant to section 62(3) of the Act, I find the tenants' security deposit has decreased by \$100.00 from \$867.50 to \$767.50 effective immediately.

### Conclusion

The landlord's application is fully successful.

The tenancy ended this date, May 25, 2021.

The landlord is granted an order of possession effective two (2) days after service on the tenants. This decision will be emailed to the parties. The order of possession will be emailed to the landlord for service on the tenants. This order may be enforced through the Supreme Court of British Columbia.

I caution the tenants that they could be held liable for all costs related to enforcement of the order of possession.

I caution the tenants not to tamper with or otherwise dismantle any smoke detector in a rental unit in the future.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*. Pursuant to section 77 of the *Act*, a decision or an order is final and binding, except as otherwise provided in the *Act*.

Dated: May 25, 2021

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Residential Tenancy Branch