



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ET

### Introduction

On May 8, 2021, the Landlords made an Application for Dispute Resolution seeking an early end to this tenancy and an Order of Possession pursuant to Section 56 of the *Residential Tenancy Act* (the “Act”).

Both Landlords attended the hearing. The Tenant attended the hearing with his mother, E.A., who was attending as his advocate. At the outset of the hearing, I explained to the parties that as the hearing was a teleconference, none of the parties could see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so. All parties acknowledged these terms. As well, all parties in attendance provided a solemn affirmation.

Landlord G.B. advised that he served the Tenant the Notice of Hearing and evidence package by hand on May 12, 2021; however, he did not serve their digital evidence to the Tenant. The Tenant confirmed that he received this package. Based on this undisputed testimony, I am satisfied that the Tenant was sufficiently served the Notice of Hearing and evidence package. As such, I have accepted the Landlords’ evidence and will consider it when rendering this Decision. However, as the Landlords’ digital evidence was not served to the Tenant, this was excluded and will not be considered when rendering this Decision.

The Tenant advised that he did not submit any evidence for consideration on this file.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

- Are the Landlords entitled to an early end to this tenancy and an Order of Possession?

### Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on December 1, 2013, that rent was currently established at \$1,050.00 per month, and that it was due on the first day of each month. A security deposit of \$475.00 was also paid. A signed copy of the tenancy agreement was submitted as documentary evidence.

G.B. advised that he was contacted in March 2021 by the regional district as the water bill of the rental unit was excessively high compared to the past. He contacted the Tenant about this, and the Tenant would not let the Landlord into the rental unit to investigate but said he would get a plumber to address the issue. He stated that the Tenant texted him the next day informing him that there was a leak and it looked bad. When G.B. went to investigate the next day, he discovered that the Tenant had cut a substantial sized hole in the floor, without any authorization from the Landlords. G.B. observed that this area was rat infested, that the joists were rotten, and that there was mould. The Tenant informed him that there had been a leak for a substantial amount of time.

It was agreed that contractors would come in to fix this problem; however, multiple contractors looked at the repair and determined that the leak had been occurring for a significant amount of time. Furthermore, due to the long-term damage and the hazardous nature of the rat infestation, they advised G.B. that they would not accept the

work and that it would also be too costly to repair. The contractors determined that the leak was caused by rats chewing through the water lines, and judging by the damage, the leak had been occurring likely for about a year. Given the extent of the damage, G.B. indicated that this leak would have been obvious, and it is not clear why the Tenant did not inform them that this had been occurring a long time ago. He referenced pictures and documentary evidence submitted to support this position.

G.B. also advised that the Tenant had made threats to G.B. and an agent of the Landlords, challenging them to a physical confrontation, as well as threatening and antagonizing them on multiple occasions. This was reported to the police and as the Tenant was known to them, the police advised G.B. to steer clear of the Tenant. He referenced documentary evidence submitted of witness statements that corroborate these accounts.

Finally, G.B. advised that the Tenant, or guests of the Tenant, started two fires on May 17 and May 19, 2021. The first fire was approximately 20 feet high and the Fire Department was dispatched to come and extinguish the fire. The second fire cast a large, black plume of smoke into the air and the Fire Department was dispatched again to extinguish the fire.

The Tenant advised that he only cut out a hole in the floor of the rental unit after he was informed by G.B. that there was a water leak. He stated that he never noticed any warped flooring or anything to suggest that there was a leak. He testified that once he was notified of a leak, he investigated under the rental unit, discovered the leak, and then proceeded to cut a hole in the flooring, despite not having any authorization from the Landlord to do so. It was his belief that this was the appropriate course of action to repair the issue, in his opinion.

Regarding the fires, the Tenant advised that the fire department was called to attend two, separate fires. The first one was a small campfire that the fire department told him to extinguish, and the second fire was started by his guests as he was not in attendance. However, this was a small campfire as well.

### Analysis

Upon consideration of the testimony before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

Section 56 of the *Act* establishes the grounds for the Landlords to make an Application requesting an early end to a tenancy and the issuance of an Order of Possession. In order to end a tenancy early and issue an Order of Possession under Section 56, I need to be satisfied that the Tenant, or a person permitted on the residential property by 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.*

I find it important to note that the party making the claim has the burden to provide sufficient evidence over and above their testimony to establish their claim. In addition, when two parties to a dispute provide equally plausible accounts of events or circumstances related to a dispute, the party making the claim has the burden to provide sufficient evidence over and above their testimony to establish their claim. I also note that the threshold of evidence required to justify an early end of tenancy Application is much higher than that of an Application for an Order of Possession based on a One Month Notice to End Tenancy for Cause.

Given the contradictory testimony and positions of the parties, I must first turn to a determination of credibility. I have considered the parties' testimonies, their content and demeanour, as well as whether it is consistent with how a reasonable person would behave under circumstances similar to this tenancy.

When reviewing the evidence and testimony of the parties, I have on one hand G.B.'s testimony regarding the actions, behaviours, and comments originating from the Tenant,

as well as documentary evidence supporting the Landlords' allegations. On the other hand, I have mostly simple denials of these allegations from the Tenant. When weighing the entirety of the evidence, I find the Landlords' evidence of an ongoing leak to be more compelling and persuasive. Given the extent of the damage and the reports from the contractors, I am satisfied that this leak had been happening for an extended period of time and I do not find it likely that the Tenant would not have noticed the damage that was occurring. Moreover, I find it more likely than not that the Tenant had cut into the flooring prior to when the Landlords first were informed that there was an excessive water usage issue in the rental unit. Furthermore, it is not clear to me why the Tenant believed it would have been ok to cut a substantial hole into the rental unit without the Landlords' consent. When weighed against the Landlords' evidence, I find the Tenant's brief, and limited testimony to be dubious and unlikely. This causes me to doubt the credibility and truthfulness of the Tenant's submissions on the whole.

In addition, I find it important to note that the Tenant did not refute the allegations that he threatened G.B. and an agent of the Landlords. As well, I find it unlikely that the Fire Department would have been dispatched if there were small campfires as the Tenant purported. Given that I am already doubtful of the reliability of the Tenant's testimony, I give no weight to his submissions that these were mere campfires that did not require the assistance of the Fire Department to extinguish.

Considered in its totality, I find G.B. to be a more credible witness than the Tenant. As a result, I prefer the Landlords' evidence on the whole. As such, I find it more likely than not that the Tenant has acted in a combative, argumentative, and possibly a juvenile manner that is offensive and inappropriate. Furthermore, I am satisfied that he was more likely than not aware that there was a leak in the rental unit, that he did not inform the Landlords of this in a timely manner, and that this neglect, and his unauthorized cutting of a hole in the rental unit flooring, caused extensive damage to the rental unit. I also find it likely that the Tenant, or guests of the Tenant, have started dangerous fires on the property that necessitated the Fire Department to attend and extinguish.

I find that the combination of the behaviours and actions of the Tenant were clearly intentional, malicious, and that they could pose a danger that would fall into the categories of seriously jeopardizing the health or safety or a lawful right or interest of the Landlord and causing extraordinary damage to the residential property.

The Landlord must also demonstrate that "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 for cause" to take effect. Based on the consistent

evidence and testimony of these troublesome past and current behaviors, I am satisfied that the Tenant will continue to engage in a manner of escalating hostility and childish, immature behaviour. Should the tenancy resume in this manner, this will greatly increase the likelihood of a genuine concern for the ongoing safety of the property, of any neighbours, or of any persons that may attend the rental unit.

Under these circumstances described, I find that it would be unreasonable and unfair for the Landlords to wait for a One Month Notice to End Tenancy for Cause to take effect. For these reasons, I find that the Landlords have provided sufficient evidence to warrant ending this tenancy early. As such, I find that the Landlords are entitled to an Order of Possession.

### Conclusion

I grant an Order of Possession to the Landlords effective **two days 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.

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: May 21, 2021

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Residential Tenancy Branch