



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ET, FFL

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") for an early termination of the tenancy and an Order of Possession pursuant to section 56 of the Act, and to recover the cost of her \$100.00 Application filing fee.

The Landlord, I.T., and an agent for the Landlord, A.T. ("Agent"), appeared at the teleconference hearing and gave affirmed testimony. No one attended on behalf of the Tenant. The teleconference phone line remained open for over 30 minutes and was monitored throughout this time. The only persons to call into the hearing were the Landlord and the Agent, who indicated that they were ready to proceed. I confirmed that the teleconference codes provided to the Parties were correct and that the only persons on the call, besides me, were the Landlord and the Agent.

I explained the hearing process to the Landlord and Agent and gave them an opportunity to ask questions about the hearing process. During the hearing, the Landlord was given the opportunity to provide her evidence orally and to respond to my questions. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

As the Tenant did not attend the hearing, I considered service of the Notice of Dispute Resolution Hearing. Section 59 of the Act and Rule 3.1 state that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Landlord testified that she served the Tenant with the Notice of Hearing documents by posting them on the door of the rental unit on June 1, 2021. I find that the Tenant was deemed served with the Notice of Hearing documents in accordance with the Act. I, therefore, admitted the Application and evidentiary documents, and I continued to hear from the Landlord in the absence of the Tenant.

### Preliminary and Procedural Matters

The Landlord provided the Parties' email addresses in the Application and she confirmed these addresses in the hearing. She also confirmed her understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

At the outset of the hearing, I advised the Landlord that she is not allowed to record the hearing and that anyone who was recording it was required to stop immediately.

### Issue(s) to be Decided

- Is the Landlord entitled to an early end to the tenancy and an order of possession?
- Is the Landlord entitled to recovery of the \$100.00 Application filing fee?

### Background and Evidence

The Landlord submitted a copy of the Parties' tenancy agreement, which sets out that they agreed that this fixed-term tenancy began on August 1, 2018, ran to July 31, 2019, and then operated on a month-to-month basis. The tenancy agreement also states that the Tenant must pay the Landlord a monthly rent of \$1,900.00, due on the first day of each month. The Landlord confirmed that the Tenant paid her a security deposit of \$950.00, and a pet damage deposit of \$950.00. The Landlord confirmed that she still holds the deposits in full.

In the hearing, the Landlord said that the reason she needs an early termination of the tenancy, is because the rental unit is a fire hazard. The Landlord said:

The Strata hasn't been able to conduct a fire safety inspection. We have asked [the Tenant] to make the unit sanitary enough for a fire inspector to do the inspection. When we saw the unit, it was cluttered, with many appliances plugged in. The earlier we have access to the unit to sort it out the safer for everyone.

She received a written notice from the Strata asking her to make the unit sanitary and accessible for the fire inspection, with a threat of a \$200.00 fine. We had a conversation with Strata on the same topic. We reached out to the tenant in mid-May. We had a conversation with the Tenant, and she stated that Strata has

requested the unit to be cleaned up by May 21 for the inspection.

In the week before the 21<sup>st</sup>, we communicated with her on multiple occasions. We gave her an inspection date – before the Strata's deadline – as the Strata asked us to confirm that the unit is sanitary and accessible

When we had the inspection in the morning, and she said she can't complete this on time, we gave her a couple more days. We told her that no matter what the condition of the unit, we are coming to inspect it. Since then she has not been in contact with us at all.

Also, when we came to inspect on the weekend, we noticed there was a note from the BC SPCA on the door, because a dog was living in that unit. Given the condition of the unit, we called the number on the door right away, and gave them photos of the condition of the unit. We weren't the ones who initially contacted them. They asked us to get the dog out of the unit. I had to come and open the door of the unit, which is always unlocked. As soon as the door was open, the dog went running out, happy to see people. It looked like it was neglected and not taken out for quite some time and doing all its business in the unit.

When I asked why it would be unreasonable or unfair to the Landlord or other occupants of the residential property to wait for a one month notice to end the tenancy to take effect, the Landlord said:

I think, the fire safety risk – there's a bit of urgency behind that. And this wasn't used as evidence, but while doing our inspection, we noticed there is smoking of substances in the unit, which is not relevant, but there is smoking inside, which increases the fire risk. And the propane gas tank on the balcony adds to the fire hazard.

### Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

In order to establish grounds to end the tenancy early under section 56 of the Act, the landlord must not only establish that they have cause to end the tenancy, but that it would be unreasonable or unfair to require the landlord to wait for a notice to end the

tenancy under section 47 of the Act to take effect. Having reviewed the testimony of this Landlord, I find that she has met that burden.

I accept the Landlord's undisputed evidence that the condition in which the Tenant keeps the rental unit is a fire hazard, which would put the safety of the other occupants of the residential property, as well as the Landlord's property at significant risk.

Due to these conclusions, I therefore find that the Landlord has proven that the Tenant has seriously jeopardized the health or safety or a lawful right or interest of the Landlord or another occupant; as well as put the Landlord's property at significant risk. I am also satisfied that it would be unreasonable and unfair to the Landlord to wait for the One Month Notice to End Tenancy to take effect, as I find without it, they are less likely to be able to preserve their property.

I therefore grant the Landlord's Application to end this tenancy early, pursuant to section 56 of the Act, as well as her request to recover the \$100.00 Application filing fee, pursuant to section 72 of the Act.

I grant the Landlord an Order of Possession **effective two days after service** on the Tenant, pursuant to section 56 of the Act. This Order must be served on the Tenant. The Landlord is authorized to deduct \$100.00 from the Tenant's security deposit in complete satisfaction of the monetary award.

I grant the Tenant a Monetary Order for the remaining amount of the security and pet damage deposits of \$1,800.00 pursuant to section 62 of the Act. This Order must be served on the Landlord.

### Conclusion

The Landlord's Application for an early end to this tenancy is successful. The Landlord's claim for recovery of the \$100.00 Application filing fee is also successful. The Landlord is authorized to deduct **\$100.00** from the Tenant's \$950.00 security deposit in complete satisfaction of this award.

The Landlord is Ordered to return the remaining amount of the \$950.00 security deposit and the \$950.00 pet damage deposit to the Tenant as soon as possible. The Tenant is granted a Monetary Order of **\$1,800.00** from the Landlord in this regard. This Order must be served on the Landlord by the Tenant and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court.

The Landlord is granted an **Order of Possession effective two days after service** on the Tenant. This Order of Possession is granted pursuant to section 56 of the Act.

Should the Tenant fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: June 15, 2021

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Residential Tenancy Branch