



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding City of Vancouver  
and [tenant name suppressed to protect privacy]

## **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 – as the Tenant poses an immediate and severe risk to persons and/or property; and to recover the \$100.00 cost of their Application filing fee.

An agent for the Landlord, B.W. ("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 20 minutes and was monitored throughout this time. The only person to call into the hearing was the Agent, who indicated that he was ready to proceed. I confirmed that the teleconference codes provided to the Parties were correct and that the only person on the call, besides me, was the Agent.

I explained the hearing process to the Agent and gave him an opportunity to ask questions about it. During the hearing, the Agent was given the opportunity to provide his 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 Agent testified that he served the Tenant with the Notice of Hearing documents by posting them in an envelope on the rental unit door on July 13, 2021. The Agent submitted a photograph of an envelope taped to the rental unit door as proof of service.

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 Agent in the absence of the Tenant.

### Preliminary and Procedural Matters

The Landlord provided their email address in the Application and the Agent confirmed this address in the hearing. The Agent said he does not know if the Tenant has an email address or not. The Agent said that the Tenant was displaced by a fire he had started in the unit, and that he is currently living in shelters. I said we would mail the decision to the rental unit address, but that I would appreciate if the Agent would serve the Tenant with a copy of the Decision, when he serves any order of possession awarded to the Landlord in this proceeding.

At the outset of the hearing, I advised the Agent that pursuant to Rule 7.4, I would only consider the Landlord's written or documentary evidence to which the Agent pointed or directed me in the hearing. I also advised the Agent that he is not allowed to record the hearing. The Agent confirmed that he was not recording the hearing.

### Issue(s) to be Decided

- Is the Landlord entitled to an early termination of the tenancy agreement, and a 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, and the Agent confirmed in the hearing that the periodic tenancy began on October 2, 2012, with a current monthly rent of \$476.00, due on the first day of each month. The Agent confirmed that the Tenant paid the Landlord a security deposit of \$267.98, and no pet damage deposit.

In their Application, the Landlord said:

On June 14/2021 at approximately 06:59 am there was a fire in [the Tenant's] suite. [The Tenant] admitted to throwing a lit cigarette into his bedroom closet which cause the fire. The building sprinkler system was engaged to put out the fire. The sprinkler caused serious water damage to 34 suites and 5 hallways. 12

tenants were displaced from their suite and needed to find alternative accommodations. [The Tenant's] actions has seriously endangered the safety, right or interest of the landlord

The Agent said that the Tenant was served with a One Month Notice to End the Tenancy for Cause; however, the Agent said that the Landlord seeks an early termination of the tenancy and an Order of Possession for the rental unit, as the Tenant poses an immediate and severe risk of causing damage and injury.

In the hearing, the Agent said that he submitted supporting documents to illustrate the extent of the Tenant's actions on the residential property and on other occupants of the building. These included photographs of the rental unit after the fire, and of other units on the floor, the hallways, the ceilings, the Tenant's closet with the post-fire debris.

The Agent submitted a copy of an email he received from a colleague regarding the fire, which sets out the number of other units affected by the fire and the water damage:

As per our conversation about which units need to be packed out/moved below are the full list of units. My crew will be dropping off boxes and tape to help speed this process up a bit. Today we can meet around 10 to discuss the plan for tomorrow's movement. Our preliminary emergency scope is done but will be checked today and finalized asap.

Units to require full pack outs [listed 12 units on multiple floors].

The Agent said:

So many units were damaged from the 10<sup>th</sup> floor down to the 4<sup>th</sup> floor. The entire 10<sup>th</sup> floor has been gutted. Everything was emptied out of suites. 10th floor people have all moved. Repairs haven't even started yet. Some tenants were displaced and are living in other suite that the City had to find to accommodate these people. We've provided containers to store items, to save what we could.

I asked the Agent 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, and the Agent said:

He's not living here now, and why unfair? The number of people who have been displaced - their personal photo albums ruined. People have talked to me – they were in tears that someone could be so careless and throw a lit cigarette butt in

the closet. He ruined their memorabilia. Pictures of loved ones you never get back.

[The Tenant] feels remorseful and he admits to doing it, but I have so many people displaced, and the lost property of these tenants because of a careless, intentional act. It's just sad that someone would do that.

Last week - the first week of the fire – I talked to so many distraught seniors— their belongings had to be thrown out. These people are seniors. I'm sad for both parties. I feel bad more so for the other tenants, though. And they are scared that if we do extend his tenancy that he might do it again.

### 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 a 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 and documentary evidence of the Landlord, I find that they have met this burden.

Based on the evidence before me overall, I accept the Landlord's undisputed evidence that the Tenant poses an immediate and severe risk to persons and/or property in the residential property. I find that the Tenant could or should have anticipated that throwing a lit cigarette butt into the closet would more likely than not start a fire, which would cause the Landlord and other tenants, and their belongings to be put at significant risk.

I accept the Landlord's undisputed evidence that the risk of allowing the Tenant to continue the tenancy would put other tenants and the Landlord's property at significant risk. Due to these conclusions, I therefore find that the Landlord has proven that the Tenant poses an immediate and severe risk to persons and/or property in the residential property. I am 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 an early end to the tenancy, persons and property are at risk.

I therefore confirm the Landlord's Application to end this tenancy early, pursuant to section 56 of the Act. I grant the Landlord an **Order of Possession** of the rental unit,

which will be **effective two days after it is deemed served on the Tenant**, pursuant to sections 56 and 90 of the Act.

I also confirm the Landlord's claim to recover the \$100.00 Application filing fee. I award the Landlord with recovery of the \$100.00 Application filing fee from the Tenant, pursuant to section 72 of the Act. Further, I authorize the Landlord to deduct **\$100.00** from the Tenant's security deposit in full satisfaction of this monetary award.

### Conclusion

The Landlord's Application is successful, as they provided sufficient evidence on a balance of probabilities to establish that the Tenant poses an immediate and severe risk to persons and/or property in the residential property.

Pursuant to section 56 of the Act, I grant an Order of Possession of the rental unit to the Landlord effective **two days after service of this Order** on the Tenant. The Landlord is provided with this Order in the above terms and the Tenant must be served with this Order as soon as possible. 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.

I authorize the Landlord to retain \$100.00 from the Tenant's security deposit, in satisfaction of the monetary award of recovery of the Application filing fee.

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: July 29, 2021

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Residential Tenancy Branch