



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PACIFICA HOUSING ADVISORY  
ASSOCIATION and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ET

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an early end to this tenancy and the issuance of an Order of Possession pursuant to section 56.

Only the landlord appeared at the hearing. The landlord provided affirmed testimony and was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

The landlord testified and supplied documentary evidence that they served the tenant with the Notice of Hearing and Application for Dispute Resolution by posting it on his door on August 18, 2021. The landlord further provided testimony that a witness was present when serving the tenant. I find the tenant has been duly served in accordance with section 89(2)(d) of the *Act*. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

### Issues(s) to be Decided

Is the landlord entitled to an early end of tenancy and an Order of Possession?

### Background and Evidence

NG gave the following undisputed testimony on behalf of the landlords. This tenancy began on July 1, 2017 with the current monthly rent of \$435.00 due on the first of each month. The landlord is seeking an early end to this tenancy for the following reason as noted on their application:

*“At 8:55am on July 31, 2021 the respondent assaulted another occupant with bear spray. The occupant required medical attention and attended the hospital due to affect of bear spray. One of our staff members was also affected by the bear spray, she breathed it in and had mild difficulty breathing.”*

NG testified that on July 31, 2021 she heard loud screams and hissing coming from one of the adjacent units. NG testified that the tenant and another occupant had engaged in an argument that resulted in the tenant spraying the other tenant with bear spray. The police attended to arrest the tenant and have formally charged him with assault. The landlord stated that this is an urgent application about a tenant who poses an immediate and severe risk to the rental property, other occupants or the landlord and wants an order of possession.

### Analysis

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an Order of Possession on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 for a landlord's notice for cause. In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that 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.*

The tenant's behaviour caused physical harm to another occupant and staff of the building to such a level, that the police have charged the tenant with assault and have placed bail conditions on him not to have contact with certain individuals in the building and to restrict his access throughout the building. The landlord has provided undisputed testimony and documentation to satisfy me that the tenant has:

- *“significantly interfered with or unreasonably disturbed another occupant or the landlord of 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.*

Based on the above, I find that the landlord is entitled to have this tenancy end early and grant them an order of possession pursuant to section 56 of the Act. The tenancy is terminated.

### Conclusion

The landlord is granted an order of possession. The tenancy is terminated.

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: August 31, 2021

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Residential Tenancy Branch