



# Dispute Resolution Services

Page: 1

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

### 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.

An agent for the landlord, GM (agent), the tenant, a case manager for the tenant, CG (case manager), and an advocate for the tenant, DD (advocate) 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 all parties confirmed having been served with documentary evidence prior to the hearing and that they had the opportunity to review that evidence, I find the parties were sufficiently served in accordance with the Act.

### Preliminary and Procedural Matters

The parties 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 parties 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 parties 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. Neither party had any questions about my direction pursuant to RTB Rule 6.11.

In addition, the parties confirmed their respective email addresses at the outset of the hearing and stated that they understood that the decision and any applicable orders would be emailed to them.

### Issue 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?

### Background and Evidence

The agent stated that on July 3, 2021, the tenant hit a security guard and then pushed the same security guard in the back, both of which there was photo evidence of and was reviewed. The advocate did not dispute these events took place.

The agent then stated that the tenant was heard screaming from their unit, "I can hurt you." The agent stated that the police were called and did not attend until 11:28 a.m. The agent stated that tenant was not taken into custody and instead the police called the Act 5 and Car 97 teams and the agent stated that neither responded until much later. The agent stated that it was not until July 5 that the police took the tenant to the hospital under the *Mental Health Act*. The agent stated that on July 4, 2021 they could not reach Act 5 and the tenant was screaming all weekend, which was scaring neighbouring tenants. The agent stated that nobody felt comfortable enough to complete witness statements in fear of the tenant.

The agent presented the Addendum to the tenancy agreement, which sets out Crime Free Housing and that the tenant agrees not to engage in illegal activities including assault or threatened assault.

The advocate presented a letter from Dr. N dated July 21, 2021 that states in part the following:

[Tenant] has mental health diagnosis and is closely followed by a support team, ACT Team 5, which checks in with regularly. [Tenant] had become unwell on July 4<sup>th</sup> and the team issued a Form 21 recall, which means that [tenant] required hospitalization for psychiatric destabilization. The incident which has led to this eviction notice being served happened during that period of destabilization, before the police were able to safely bring him to hospital. He has not spent 2.5

weeks in hospital and has stabilized and is no longer a threat to the public. He will continue to be monitored by his support team. If he was to become homeless, this would significantly impact his mental health, and would likely contribute to a further period of destabilization...

[Reproduced as written except for anonymizing name of tenant]

The Act 5 case manager was asked when the last time was that they looked at the file of the tenant and they stated, "2 weeks ago". The agent testified that the tenant admitted to not taking his psychiatric medications for the last 2 days which the tenant confirmed during the hearing.

The agent also stated that on August 26, 2021, the tenant was screaming "touch me and I will kill you!", to which police officers attended. The tenant denied stating that they said that but did confirm that police officers attended to see how the tenant was doing.

### Analysis

Based on the testimony and the documentary evidence provided during the hearing, and on a balance of probabilities, I find and I am satisfied that the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord by assaulting the security guard twice by striking the head and pushing the back of the security guard. I also find the tenant has committed an illegal act, two assaults, 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.

In addition to the above, I find that rights of the other occupants of the building outweigh the tenant's right to stable housing as the tenant admitted that they were not taking their medication for the last 2 days and did not deny that they were screaming for the rest of the weekend beyond July 3, 2021 as stated by the agent. I also note that the tenant's destabilization took place during a period when the tenant had a home and was not homeless and therefore afford little weight to the letter from the doctor as a result.

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 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 tenant and the documentary evidence before me to support that the tenant assaulted a security guard twice and stopped taking their medication for the past two days before the hearing. Furthermore, I find that an assault by a tenant against another person during a tenancy is unreasonable. Therefore, pursuant to section 56 of the Act, I grant the landlord an order of possession. As the agent asked for a 1-week order of possession, I grant the order of possession effective Friday, September 3, 2021 at 5:00 p.m. I find the tenancy ended the date of this hearing, August 27, 2021 pursuant to section 62(3) of the Act.

The landlord waived the return of the filing fee.

### Conclusion

The landlord's application is successful.

The tenancy ended on August 27, 2021.

The landlord is granted an order of possession effective September 3, 2021 at 5:00 p.m.

This decision will be emailed both parties. The order of possession will be emailed to the landlord for service on the tenant. This order may be enforced through 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 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: August 30, 2021

---

Residential Tenancy Branch