



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Everbright Properties Inc.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ET

### 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.

An agent for the Landlord, R.W. ("Agent"), appeared at the teleconference hearing and gave affirmed testimony. No one attended on behalf of the Tenants. 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 she 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.

The Agent said that the Tenant, K.W., called the Agent repeatedly, asking for her \$400.00 security deposit. As the Tenant was calling the Agent during the hearing, the Agent put her cell phone on speaker phone, so that the Tenant could participate in the hearing. However, the Tenant would not respond to our request that she call in to the teleconference hearing to discuss this matter. The Tenant confirmed that she had already moved out on September 4, 2021, and that she only wanted her security deposit; however, the Agent said that another agent had already e-transferred the security deposit to the Tenant. The Agent ended her call with the Tenant, and we continued the hearing without her, as the Tenant never called into the hearing.

I explained the hearing process to the Agent and gave her an opportunity to ask questions about the hearing process. During the hearing the Agent 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 Tenants 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 said that the Tenant, A.M., had already moved out at this point. She said the Landlord served the Tenant, K.W., with the Notice of Hearing documents by posting these documents and their evidence on the rental unit door on August 18, 2021. The Landlord provided a witness statement and a photograph of the documents posted to the door as evidence 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 it in the hearing. The Agent also provided the Tenant’s email address 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 Agent that pursuant to Rule 7.4, I would only consider their written or documentary evidence to which she pointed or directed me in the hearing. I also advised the Agent that she was not allowed to record the hearing and that anyone who was recording it was required to stop immediately.

#### Issue(s) to be Decided

- Should the Landlord be granted an early termination of the tenancy and an order of possession?

#### Background and Evidence

The Agent confirmed the evidence in the tenancy agreement, that the periodic tenancy began on July 1, 2021, with a monthly rent of \$1,600.00, due on the first day of each month. The Agent confirmed that the Tenants paid the Landlord a security deposit of \$800.00, and no pet damage deposit.

In their Application, the Landlord said:

Tenant [K.W.] has been giving access during day and night time to unauthorized individuals which caused a serious threat and safety issue on July 27th 2021. We have received complaints of noise (fights) and blood stains all over the lobby, RCMP attended the incident. These individuals are on a daily basis (at night) in and out of the property and we fear for the safety of our tenants. In addition, we received continuous complaints of smoking weed smell coming from the unit.

The Agent reiterated this in the hearing, and she said the Tenants also breached the Landlord's rule against smoking in the building. The Agent noted that this rule is set out in clause 23 of the Addendum to the tenancy agreement. She said it is also posted in the lobby of the residential property. The Agent said that the Tenants knew about this before they signed the tenancy agreement.

The Agent noted that the Landlord submitted photographs of the someone smoking on the balcony of the rental unit. She also said that they have found a lot of cigarette butts underneath the rental unit balcony.

### 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 he has 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 the Landlord, I find that they have met that burden.

I accept the Landlord's undisputed evidence that the Tenants or someone they have allowed on the property to have significantly interfered with or unreasonably disturbed another occupant and the Landlord of the residential property when they had a fight in the lobby. I also accept the Agent's evidence that the Tenants or someone they allowed on the property to have smoked contrary to the Landlord's rules set out in the tenancy agreement and in the lobby of the residential property. I find this to have unreasonably disturbed another occupant of the Landlord.

I find such activities, along with police having to be called to the residential property would cause the Landlord, and other occupants of the residential property to have been unreasonably disturbed. If the Tenants had not moved out, I find that it would have been

unreasonable and unfair to the Landlord to wait for the One Month Notice to End Tenancy to take effect, as I find without it, the other occupants and the Landlord would continue to be significantly interfered with or unreasonably disturbed by the behaviour of the Tenants and/or their guests.

Due to these conclusions, I, therefore, find that the Landlord has proven that the Tenants have significantly interfered with or unreasonably disturbed another occupant and the Landlord, as well as put the Landlord's property at significant risk.

Given the evidence before me overall, and because the Tenants have moved out already, I find that the Landlord is eligible for an Order of Possession of the rental unit.

I therefore grant 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 Tenants**, pursuant to sections 56 and 90 of the Act.

### Conclusion

The Landlord's Application is successful, as the Agent provided sufficient evidence to establish on a balance of probabilities the Landlord's eligibility for an Order of Possession. 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 Tenants. The Landlord is provided with this Order in the above terms and the Tenants must be served with this Order as soon as possible.

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: September 07, 2021

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Residential Tenancy Branch