



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Heatley Street Apartments Inc and  
[tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ET, FFL

### Introduction

The landlord filed an Application for Dispute Resolution on August 19, 2021 seeking an order to end the tenancy on the basis that the tenant poses an immediate and severe risk to the property, other occupants, or the landlord. The matter proceeded by way of a conference call hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on September 9, 2021.

The landlord attended the conference call hearing; the tenant did not attend.

The landlord stated that they delivered notice of this dispute resolution to the tenant by affixing it to the door of the rental unit where the tenant resides. They provided a Proof of Service for each of the packages served to each tenant, as well as a photo showing the packages attached to the rental unit door. From what the landlord presents here on notifying the tenant of this hearing, I am satisfied they served the tenant the Notice of Hearing in a method prescribed by the *Act* as per s. 89(2)(d).

The tenant did not attend the hearing and did not provide any documentary evidence in advance.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession that ends the tenancy for cause and without notice by s. 56 of the *Act*?

Is the landlord entitled to reimbursement of the Application filing fee?

## Background and Evidence

I have reviewed all oral and written evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this section. After I affirmed an oath with each attending representative of the landlord, I gave them the opportunity to speak to the issue. Their oral testimony stands as evidence in this matter.

Both parties confirmed details of the tenancy agreement and a copy of that was in the evidence. The rent is listed as \$1,700 per month on the first of each month. This tenancy started in July 2018 and as of the date of this hearing the tenant still occupied the rental unit. The tenant who remains is one of two listed on the tenancy agreement; the other is a parent who did not live in the rental unit but assisted and/or paid the monthly rent.

The landlord applies for an end of tenancy based on the “immediate and severe risk to the rental property, other occupants or the landlord.” This is for separate incidents that they outlined in their documentary evidence. This includes:

- the tenant’s presence in the maintenance room which is strictly off limits to tenants
- this resulted in the tenant obtaining keys for units throughout the building as well as a master key
- the tenant verbally announced this to building residents throughout in a loud and aggressive manner
- the tenant focuses on one unit in particular – these actions are yelling and appearing at the window, constituting harassment for which the police have been called
- police have been called more than 50 times for events related to this one tenant – sometimes this is three times per week
- police took the tenant for a medical assessment; however, on their return the behaviour was more aggressive

One letter each from another building resident who feels disturbances directly, as well as the building manager, are in the landlord’s evidence. These give information on specific instances with reference to dates and other individuals’ involvement.

## Analysis

The *Act* s.56 provides that a tenancy may end earlier than a normal prescribed period if one or more of the outlined conditions applies. These conditions reflect dire or urgent circumstances. The legislation regarding an order of possession reads as follows:

- 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 tenancy were given under s. 47 [*landlords' notice: cause*], and
  - (b) granting the landlords an order of possession in respect of the rental unit.

The *Act* s.56(2) sets out two criteria. First, the landlords must prove the cause for issuing the Notice. Second, the evidence must show it would be unreasonable or unfair to the landlords to wait for a set-period Notice to End Tenancy to take effect under a different section of the *Act*. The determination of cause considers the following situations of immediate and severe risk:

- (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 landlords of the residential property;
  - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlords or another occupant;
  - (iii) put the landlords' property at significant risk;

I have carefully considered the evidence of the landlord concerning the conduct of the tenant and the incidents as set out in the evidence.

I find the landlord here presented sufficient evidence to show the tenant was the cause of interference and disturbance to others in the building. What carries weight here is the one manager's direct accounts of interactions and knowledge of the many instances of police involvement. That building manager described threats uttered by the tenant to various other residents; from this I find there is a consensus that the tenant here poses an immediate and severe risk to other occupants or the landlord.

I find the evidence in the form of the landlord's direct testimony shows this pattern has continued for some time. Given my concern about the threshold reached, and the potential for more interference and disturbance, I find it would be unreasonable for the landlord to wait for the tenancy to end within a set period. I find the landlord is within their rights to end the tenancy in this manner.

I find there is sufficient evidence to show the tenant was the cause of interference and disturbance to others. I find this is an action that is specified by s. 56(2) above, particularly subsections (a) (i), and to a somewhat lesser degree (a)(iii).

The evidence provided proves cause. I find it unreasonable for the landlord to wait for a set-period Notice to End Tenancy to take effect. Both these factors merit an expedited end to the tenancy. I so grant an Order of Possession in line with this rationale.

Because they were successful in this hearing, I grant the landlord \$100 reimbursement of the Application filing fee.

### Conclusion

For the reasons above, I grant an Order of Possession to the landlords effective two days after the landlord's service of same upon the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: September 9, 2021

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Residential Tenancy Branch