



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ET TTL

### 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 due to health or safety reasons under section 56 of the Act and receive an order of possession, and to recover the filing fee.

The landlord, PM (landlord), the assistant to the property manager, LJ (manager) and the caretaker, MW (caretaker) 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 agents. Words utilizing the singular shall also include the plural and vice versa where the context requires.

The parties confirmed that the Notice of Dispute Resolution Proceeding document dated August 31, 2021 (Notice of Hearing), application, documentary and digital evidence was served on the tenant by posting to the tenant's door on September 1, 2021. In addition, the caretaker testified that the tenant had spoke to them about the hearing so the caretaker was aware that they knew about all of the documents. The tenant did not attend the hearing and based on section 90 of the Act, I deem the tenant served as of September 4, 2021 with the required documents posted to the tenant's door and by email. As the tenant did not attend the hearing, I consider this matter to be undisputed by the tenant.

### Preliminary and Procedural Matters

The participants 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 participants 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 participants 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. None of the participants had any questions about my direction pursuant to RTB Rule 6.11.

In addition, the participants confirmed their email address at the outset of the hearing and stated that they understood that the decision and any applicable orders would be emailed to them. As the landlord did not have an email address for the tenant, the decision will be sent by regular mail to the tenant.

#### Issues to be Decided

- Is the landlord entitled to end the tenancy early and obtain an order of possession of health or safety reasons under section 56 of the Act?
- If yes, is the landlord entitled to the recovery of the cost of the filing fee under the Act?

#### Background and Evidence

The tenancy began on January 1, 2020. The landlord stated that they received a written complaint and have photo evidence to support that the tenant's daughter, C (tenant's daughter) lit a fire against one of the units in the housing complex. In the witness letter dated August 26, 2021 (witness letter) a neighbour wrote the following in part:

On Tuesday August 17<sup>th</sup>, 2021, I [SB] witnessed [tenant's daughter] (age 12) from [rental unit address]...

Approx 8:20 pm Aug 17<sup>th</sup>, I was on the phone out front of my unit [unit number] and I was just talking and then seen [tenant's daughter] with 2 bundles of newspaper under her left arm, and wood under her right arm. She was also with 3 children out of unit [different rental unit]...

I said to the person on the phone, weird it looks like the teenagers are going to the beach to set a fire? Within 20 seconds I heard people screaming and witnessed unit #9 male running with jugs of water.

20 mins before all this transpired [the tenant] comes out of her house shouting **I don't care if this place burns down and everyone in it...**

[Reproduced as written with emphasis added and personal information redacted]

The photo evidence submitted shows melted and burned vinyl siding on the housing complex. The landlord stated the police attended the building complex to respond to the arson.

While the landlord also stated there have been threats made by the occupants living with the tenant, the participants were advised that I did not need to hear additional evidence.

### Analysis

Based on the undisputed testimony and evidence before me provided during the hearing, and on a balance of probabilities, I find and I am satisfied that the tenant or their daughter has seriously jeopardized the health or safety or a lawful right or interest of other occupants and has committed an illegal act, arson, which could have resulted in serious bodily harm, including but not limited to loss of life.

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 complex given the arson, to wait for a notice to end tenancy under section 47 of the Act. I find the actions of the tenant's daughter and the documentary evidence before me to support that the tenancy needs to end under section 56 of the Act due to arson committed by the tenant's daughter on August 16, 2021. Therefore, pursuant to section 56 of the Act, I grant the landlord an order of possession for the rental unit effective September 30, 2021 at 1:00 p.m. I find the tenancy ended the date of this hearing, September 17, 2021 pursuant to section 62(3) of the Act.

I have used September 30, 2021 at 1:00 p.m. as the landlord confirmed that the tenant has paid rent for September 2021.

As the landlord's application had merit, I grant the landlord the recovery of their **\$100.00** filing fee pursuant to section 72 of the Act. I authorize the landlord to deduct \$100.00 from the tenant's security deposit of \$600.00 in full satisfaction of the recovery of the cost of the filing fee pursuant to sections 38, 67 and 72 of the Act. Pursuant to sections 38 and 62(3) of the Act, I find that the tenant's security deposit balance is \$500.00 effective immediately.

### Conclusion

The landlord's application is successful. The tenancy ended this date, September 17, 2021. The landlord is granted an order of possession effective September 30, 2021 at 1:00 p.m.

This decision will be emailed to the landlord and sent by regular mail to the tenant. 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. The tenant is cautioned that they can be held liable for all costs related to the enforcement of the order of possession. The filing fee is granted and the tenant's security deposit is now \$500.00 effective immediately.

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: September 17, 2021

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Residential Tenancy Branch