



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ET FFL

### Introduction

This hearing dealt with the landlords' Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for an order to end the tenancy early for health or safety reasons, receive an order of possession, and to recover the cost of the filing fee.

The landlords 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 the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing dated September 10, 2021 (Notice of Hearing), the application and documentary evidence were considered. The landlords provided affirmed testimony that the Notice of Hearing, application and documentary evidence were served by the landlord's friend, Taylor on an adult named Lamberto, who is the father of the tenant's boyfriend, where the tenant now resides. I accept the undisputed testimony before me that the service was completed on September 12, 2021 between 1:00 p.m. and 2:00 p.m. As the tenant did not call into the hearing on this date, September 20, 2021 at 9:30 a.m., I consider this matter to be undisputed by the tenant. Given the above, the hearing continued without the tenant present in accordance with Rule 7.1 and Rule 7.3 of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules), which address consequences for not attending a dispute resolution hearing.

### Preliminary and Procedural Matters

The landlords were informed at the start of the hearing that recording of the dispute resolution is prohibited under the RTB Rule 6.11. The landlords 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 landlords 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. The landlords did not have any questions about my direction pursuant to RTB Rule 6.11.

In addition, the landlords 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 landlords did not have an email address for the tenant, the decision will be sent to the new mailing address of where the tenant is now residing.

As the landlords stated that the tenant continues to store personal items in the rental unit, they are seeking an order of possession pursuant to section 56 of the Act, plus the filing fee.

#### Issues to be Decided

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

#### Background and Evidence

A copy of the tenancy agreement was submitted in evidence. The tenancy began on June 1, 2021. Monthly rent is \$1,400.00 per month. The tenant paid a security deposit of \$700.00 at the start of the tenancy.

The landlord testified that the tenant assaulted him by hitting him 3 times on August 16, 2021 at 8:54 p.m. and submitted photo evidence of the redness on his chest where the tenant assaulted him. The landlord stated that he called the RCMP to report the assault and that the tenant is being charged with assault and has a no contact order in place with the landlord due to the assault.

## Analysis

Based on the undisputed testimony provided during the hearing, and on a balance of probabilities, I find and I am satisfied that the tenant has committed an illegal act, assault, that has adversely affected the physical well being of the landlord.

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 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 the landlord. I find that assault by a tenant against a landlord in a tenancy is unreasonable. Therefore, pursuant to section 56 of the Act, I grant the landlord an order of possession for the rental unit effective not later than **two (2) days** after on the tenant. I find the tenancy ended the date of this hearing, September 20, 2021 pursuant to section 62(3) of the Act.

As the landlords' application is successful, I grant the landlords **\$100.00** for the recovery of the cost the filing fee under section 72 of the Act. As the landlord did not wish to offset the filing fee from the security deposit, I grant the landlords a monetary order of \$100.00 pursuant to section 67 of the Act.

### Conclusion

The landlords' application is successful.

The tenancy ended this date, September 20, 2021.

The landlords are granted an order of possession effective two (2) days after service on the tenant.

This decision will be emailed to both parties. The order of possession will be emailed to the landlords for service on the tenant. This order may be enforced through the Supreme Court of British Columbia.

The landlords have been granted a monetary order of \$100.00 pursuant to sections 67 and 72 of the Act.

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 20, 2021