



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET, FFT

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to end the tenancy early and obtain an order of possession, and to recover the cost of the filing fee.

Only the landlord appeared. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were served by posting to the door on November 16, 2021. I find the tenant was deemed to have received the documents on November 19, 2021.

At the outset of the hearing, I questioned the landlord on the signed tenancy agreement filed in evidence. As on page 1 the tenant has a different name of BW, but the tenant subject to this application is named DP. DP has initialled every page of the tenancy agreement and signed their name as the tenant on the last page of the tenancy agreement. The landlord stated that this discrepancy was due to the tenant initially giving a false name.

Based on the above, I find DP is the tenant as they signed the tenancy agreement as the tenant.

### Issue to be Decided

Is the landlord entitled to end the tenancy earlier and obtain an order of possession?

### Background and Evidence

The landlord testified that they never gave the tenant permission to move into the premises. The landlord stated that somehow the prior tenant gave them access and there is no subleasing of the premises.

The landlord stated as a result they began a tenancy on September 21, 2021. Rent in the amount of \$2,400.00 was payable on the first of each month. Filed in evidence is a copy of the tenancy agreement which is signed by DP.

The landlord testified the tenant signed a mutual agreement to end the tenancy on September 30, 2021. Filed in evidence is a copy of the mutual agreement to end the tenancy, which the signature of the tenant matches the signed tenancy agreement.

The landlord testified that the tenant did not vacate the rental unit as required by the mutual agreement and they have another application that is scheduled based on an undisputed 10 day notice to end tenancy for unpaid rent and unpaid rent.

The landlord testified that they issued this application to end the tenancy earlier because of an incident that occurred on November 11, 2021. The landlord stated the tenant, and their quest were fighting, which the fire extinguish case in the hallway was broken and the extinguisher an axe was used to smash the rental unit door causing significant damage and an unreasonable disturbance to other occupants. The landlord stated that the police attended the premises.

The landlord testified that the tenant is refusing to have any conversation with them. The landlord stated it would be unfair and unreasonable to wait for the effect of a one month notice to come into effect, because the tenant should have vacated based on the mutual agreement and undisputed 10 day notice to end tenancy.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In this case, I am satisfied that on November 11, 2021, that the tenant or their guest caused an unreasonable disturbance by fighting. I am also satisfied that the tenant or the tenant's guest caused extraordinary damage to the residential property when they smashed the fire extinguisher case and used the fire extinguisher for a purpose that it was not intended, to smash and damage the door of the rental unit. Filed in evidence is a photograph showing the extinguisher glass broken and glass on the floor. Filed in evidence is a photograph of the emergency fire phone removed and damage and damage to the door of the rental unit door. I find this is sufficient evidence to end the tenancy.

I have also considered if it would be unreasonable and unfair to the landlord or other occupants of the residential property, to wait for a notice to end tenancy under section 47 to take effect. In this case there was a signed mutual agreement to end the tenancy effective September 30, 2021 which the tenant has ignored. The tenant was also served with a 10 Day Notice for Unpaid Rent, which was not dispute. I find it would be unreasonable for the landlord to issue a notice to end tenancy under section 47 of the Act because the tenancy has already ended on the mutual agreement effective September 30, 2021. I find the tenancy legally ended on September 30, 2021. The tenant has not vacated the premise and has caused an unreasonable disturbance and significant damage to the residential property.

I find that the landlord is entitled to an Order of Possession effective two days after service on the tenant. This Order may be served on the tenant and filed with the Supreme Court of British Columbia and enforced as an Order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

As the landlord was successful with their application, I grant the landlord a monetary order in the amount of \$100.00 to recover the cost of the filing fee.

### Conclusion

The landlord is granted an order of possession and a monetary order to recover the cost of the filing fee

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: November 30, 2021

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Residential Tenancy Branch