



# 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 landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for an order to end the tenancy early and receive an order of possession for health or safety reasons under section 56 of the Act, and to recover the cost of the filing fee.

The landlord attended the hearing and gave affirmed testimony and was 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 landlord.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding dated October 22, 2021 (Notice of Hearing), the application and documentary evidence and digital video evidence were considered. The landlord provided affirmed testimony that the Notice of Hearing, application and documentary evidence/digital evidence were served on the tenant by registered mail on October 22, 2021. A registered mail tracking number was submitted, which has been included on the style of cause for ease of reference. According to the online Canada Post registered mail tracking website, the package was marked as unclaimed and returned to the sender on November 15, 2021. Documents sent by registered mail are deemed served 5 days after they are mailed pursuant to section 90 of the Act. Based on the undisputed testimony of the landlord and the undisputed documentary evidence, all of which confirm that the tenant was served, I find the tenant deemed served as of October 27, 2021.

As the tenant did not attend the hearing, I consider this matter to be unopposed. Words utilizing the singular shall also include the plural and vice versa where the context requires.

### Preliminary and Procedural Matters

The landlord was 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 landlord was also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the landlord was 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 landlord did not have any questions about my direction pursuant to RTB Rule 6.11.

In addition, the landlord 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?
- If yes, is the landlord entitled to the recovery of the cost of the filing fee?

### Background and Evidence

The landlord testified that on October 9, 2021, the tenant threatened someone outside of the rental unit with a sword and was screaming. The landlord presented a video which clearly shows the tenant brandishing a sword in an aggressive manner at another person at the stairs of the rental unit and that the tenant was also screaming.

The landlord testified that other occupants of the rental home were concerned for their safety and had witnessed the events and were the ones who took the video evidence presented at the hearing.

### Analysis

Based on the undisputed documentary evidence and the undisputed testimony provided during the hearing, and on a balance of probabilities, I find and I am satisfied that a

person permitted on the residential property has engaged in illegal activity that has adversely the quiet enjoyment, security, safety and physical well-being of another occupant of the residential property. Furthermore, I find the tenant made threats of death to the landlord or the landlord's guest.

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 by brandishing a sword in an aggressive manner and screaming to be unreasonable and serious enough to end this tenancy.

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, **November 19, 2021** pursuant to section 62(3) of the Act.

As the landlord's application is successful, I grant the landlord **\$100.00** for the recovery of the cost the filing fee under section 72 of the Act. I authorize the landlord to retain \$100.00 from the tenant's \$500.00 security deposit pursuant to sections 38 and 67 of the Act in full satisfaction of the recovery of the cost the filing fee. I find the tenant's security deposit is now \$400.00 effective immediately pursuant to section 62(3) of the Act.

### Conclusion

The landlord's application is fully successful. The tenancy ended this date, November 19, 2021. The landlord is granted an order of possession effective two (2) days after service on the tenant.

The filing fee is granted, and the tenant's security deposit is now reduced to \$400.00 as a result and as noted above.

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.

I caution the tenant that they can be held liable for all costs related to enforcing the order of possession.

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: November 19, 2021

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Residential Tenancy Branch