



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Capreit Limited Partnership  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ET, FFL

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession.

The hearing was conducted via teleconference and was attended by the landlord's agent and witness.

The landlord submitted the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by posting the documents on the rental unit door on December 10, 2021 at 2:08 p.m. in accordance with Section 89. Section 90 of the *Act* deems documents served in such a manner to be received on the 3<sup>rd</sup> day after they have been mailed.

Based on the testimony and documentary evidence of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession without issuing a notice to end tenancy and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 56, 67, and 72 of the *Act*.

### Background and Evidence

The landlord submitted into evidence a copy of a tenancy agreement signed by the parties on May 27, 2015 for a one-year fixed term tenancy beginning on June 1, 2015 that converted to a month-to-month tenancy on June 1, 2016 with a monthly rent of \$900.00 due on the 1<sup>st</sup> of each month with a security deposit of \$450.00 paid.

The landlord submitted that on November 8 between 9:35 and 9:45 p.m. the tenant was in the underground parking lot with his unleashed dogs, and one attacked the mother of

another occupant of the residential property who was on-site visiting. After the first dog attacked the other two dogs charged towards his mother.

The landlord submitted that this was the third attack in several months and they could no longer wait for a One Month Notice to End Tenancy for Cause issued under Section 47 to take affect as many other occupants in the building were becoming fearful of being outside of their own units.

The landlord also submitted that since the tenant was served with notice of this hearing there have been a number of occasions where the fire alarms in the buildings have been set off with no fire on the premises. The landlord attributes these alarms to the tenant.

The landlord's witness was the occupant whose mother was attacked. The witness attended the hearing and provide his firsthand account of the attack. As well, the witness spoke about the injuries suffered by his mother and her need for medical treatment.

### Analysis

Section 56(1) of the *Act* allows a landlord to seek an order 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 and an order of possession for the rental unit.

Section 56(2) outlines that such an order may be issued if:

- (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] to take effect.

I am satisfied, based on the landlord's undisputed evidence and their witness's testimony that the tenant's dogs were responsible for this attack on another occupant of the residential property.

I am also satisfied that the landlord has established, after three previous attacks, that it would be unreasonable for the other occupants of the property and the landlord to wait for a One Month Notice to End Tenancy issued under Section 47 to take effect.

### Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$100.00** comprised of the fee paid by the landlord for this application. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

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: December 23, 2021

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Residential Tenancy Branch