



# 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 due to health or safety reasons under section 56 of the Act and to recover the cost of the filing fee.

The landlord and the tenant 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.

The tenant confirmed that they received the landlord's application and documentary evidence and that they had the opportunity to review both prior to the hearing. The tenant also confirmed that they did not submit any documentary evidence prior to the hearing. I find the tenant was sufficiently served in accordance with the Act as a result.

### Preliminary and Procedural Matters

The parties 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 parties 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 parties 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. Neither party had 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. The tenant did not have an email address and as a result, the decision will be sent via regular mail to the tenant.

### Issue to be Decided

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

### Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month-to-month tenancy began on September 21, 2015. Monthly rent is \$800.00 per month and due on the first day of each month. The tenant paid a security deposit of \$400.00 at the start of the tenancy, which the landlord continues to hold.

The landlord described being assaulted by the tenant. The landlord testified that on December 25, 2021, they had said "Merry Christmas" to each other in the laneway and due to inclement weather that day, the landlord stated that they cancelled their gathering and instead decided to clear snow from the roof with a snow puller. The landlord stated that they knocked on the tenant's door to let them know about the snow removal and the tenant said, "Not today" and began to swear at the landlord and grabbed the snow puller out of the landlord's hands which the landlord said hurt their hands. The landlord testified that the tenant said "Get the fuck off of my property" and put both of her hands on the landlord's shoulders and pushed them away causing the landlord to lose their balance.

The landlord stated that they pressed their emergency alert call button on them in case the tenant continued to assault the landlord and the landlord returned to their home on the property. The landlord testified that the tenant then hit them in the back and looked for something to throw at the landlord, which was a ball and that the tenant heaved the ball at full force at the landlord.

The tenant denies assaulting the landlord; however, did admit to placing one hand on each shoulder and turning the landlord around to their property and said "Get going."

When asked if they swore at the landlord, the tenant admitted that after asking the landlord to leave 10 times, they eventually said “Fuck off” to the landlord.

The landlord stated that the tenant is not telling the truth and that the tenant assaulted them, and that the tenant’s version of events is not true. The landlord is seeking to end the tenancy under section 56 of the Act as a result.

The parties agreed that the tenant has been paid rent for February 2022.

### Analysis

Based on the testimony and documentary evidence provided during the hearing, and on a balance of probabilities, I find the following.

Firstly, I find the tenant’s version of events to be unreliable as I find there to be no reason to place their hands physically on a landlord at any time during a tenancy. Therefore, I prefer the testimony of the landlord over the tenant and find that the tenant did commit an assault against the landlord.

I am satisfied that the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord and has committed an illegal act, assault, that 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.

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 testimony of the landlord support that the tenant assaulted the landlord that was forced to activate their personal emergency alert button. Furthermore, I find that an assault by a tenant against a landlord in any tenancy is unreasonable. In addition, I find that the tenant had no logical reason to place their hands on the landlord whatsoever and that by doing so, the tenant acted aggressively towards the landlord versus simply closing their door or contacting the police, if necessary.

Given the above and pursuant to section 56 of the Act, I grant the landlord an order of possession for the rental unit effective **February 28, 2022 at 1:00 p.m.** I have used this date as rent has been paid for February 2022.

I find the tenancy ended the date of this hearing, February 18, 2022 pursuant to section 62(3) of the Act.

As the landlord's application was successful, I grant the landlord the recovery of their **\$100.00** filing fee. Pursuant to section 62(3) of the Act, I authorize the landlord to retain \$100.00 from the tenant's \$400.00 security deposit and I find the tenant's security deposit is now \$300.00 as a result.

### Conclusion

The landlord's application is successful. The tenancy ended this date, February 18, 2022. The landlord is granted an order of possession effective February 28, 2022 at 1:00 p.m.

This decision will be emailed to the landlord and sent by regular mail to the tenant who continues to occupy the rental unit. The order of possession will be emailed to the landlord for service on the tenant. This order must be served on the tenant and 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 the enforcement of 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: February 18, 2022

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Residential Tenancy Branch