



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **ET, FFL**

### Introduction

This hearing dealt with the Landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

1. An early end to the tenancy and an Order of Possession pursuant to Section 56 of the Act; and,
2. Recovery of the application filing fee pursuant to Section 72 of the Act.

The hearing was conducted via teleconference. The Landlord, CG, and the Tenant's Agent, KC, attended the hearing at the appointed date and time. The Tenant's Agent is the Tenant's mother. Both parties were each given a full opportunity to be heard, to present affirmed testimony, to call witnesses, and make submissions.

Both parties were advised that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. Both parties testified that they were not recording this dispute resolution hearing.

The Landlord served the Notice of Dispute Resolution Proceeding package and his evidence for this hearing to the Tenant by posting the notice on his door on March 15, 2022 (the "NoDRP package"). The Tenant's Agent attended the hearing, and said the Tenant had received the NoDRP package. I find that the Tenant was deemed served with the NoDRP package for this hearing three days after posting, on March 18, 2022, in accordance with Sections 89(2)(d) and 90(c) of the Act.

### Issues to be Decided

1. Are the Landlords entitled to an early end to the tenancy and an Order of Possession?
2. Are the Landlords entitled to recovery the application filing fee?

### Background and Evidence

I have reviewed all written and oral evidence and submissions before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The parties confirmed that this tenancy began as a fixed term tenancy on March 15, 2021. The fixed term ended on March 15, 2022, then the tenancy continued on a month-to-month basis. Monthly rent is \$1,200.00 payable on the first day of each month. A security deposit of \$600.00 was collected at the start of the tenancy and is still held by the Landlords. The rental unit is a two bedroom condominium and another female tenant who is not connected with the Tenant in this application stays in the second bedroom.

An earlier tenant left the tenancy as living with the Tenant in this application proved to be too difficult for her. She moved out because the Tenant left her in fear to live with the Tenant. The Landlords issued a One Month Notice to end Tenancy in October 2021, but that notice was cancelled in hearing because the notice uploaded was unsigned by the Landlords. The Landlords issued another One Month Notice to end Tenancy in February 2022, and that hearing is set in June 2022.

On March 1, 2022, the Landlords received an email from the new female tenant who had moved into the rental unit. This tenant told the Landlords that she currently was not staying in the rental unit because of the Tenant's behaviour. She said, '*Latelly, he has made me feel very unsafe being inside the apartment with him.*' She stated in her email that he intimidates her with his large size when they have arguments. She relayed a recent argument that occurred on February 27, 2022:

*The most recent argument was about me and my boyfriend having dinner at the apartment. [Tenant] texted me saying I am not allowed to have dinner with my boyfriend after 8pm. My boyfriend and I don't make much noise when we have dinner at home so I responded to his text saying I wouldn't be*

*catering to his schedule and I pointed out that he has no regard for my sleep since he can be heard screaming while playing videogames at all times of the night. He proceeded to tell me to "go fuck yourself", that he was not going to be nice to me anymore, that he had messaged [the Landlord] about it and that he would call the police if he heard any noise after 8pm.*

The female tenant continued in the email uploaded into documentary evidence that the Tenant continued to scream obscenities at her and threatened her that:

*... if I wasn't able to absorb what he just said he would tell my boyfriend to "get the fuck out" next time he saw him sitting in "his couch" and he sent a text blaming me for breaking the laundry room door that he had just broken while he was screaming at me and slamming doors. ... Daniel is very clearly emotionally and mentally unstable and I fear for my safety if I have to sleep in the same apartment as him.*

On March 11, 2022, the female tenant sent the Landlords a further email relaying the events from the previous evening:

*I have been staying away from the apartment since the last incident with [the Tenant], that happened on February 27, where he acted aggressively towards me. At around 8:30pm last night my boyfriend and I had plans to go to dinner with my boyfriends dad, my boyfriend and I went to the apartment to pick up a few things from my room before heading to dinner. [Tenant] was clearly not happy to see either of us there, we were waiting in the living room for a text from my boyfriends dad so that we could head to the restaurant, when [the Tenant] saw us there he went into his room, slammed the door shut, and turned his music up as loud as he could in an attempt to drive us away from the apartment. When he saw that didnt work he opened the door for a few minutes, and the he exited the apartment, leaving the music playing. While he was out of the apartment he texted me saying he was getting his food and that he would be eating it in the living room, he complained about an argument we had a couple days ago about our bills, and he threatened my boyfriend saying "if your boyfriend looks at me I'm gonna kick his fucking head in".*

*At the same time as [the Tenant] sent the threatening text we got the message from my boyfriends dad saying he was ready to head to the restaurant, my boyfriend and I grabbed our stuff and headed towards the*

door the door so that we could leave the apartment. As we were putting our shoes on [the Tenant] came into the apartment, said "get the fuck out of my way" and he pushed my boyfriend over. My boyfriend said "whats your problem [Tenant]" to which [the Tenant] responded with something about how we were invading his space destroying his peace. [the Tenant] then walked aggressively towards my boyfriend, he slapped my boyfriend in the face and took my boyfriends glasses off his face. My boyfriend asked for them back and [the Tenant] refused, when my boyfriend walked towards [the Tenant] to try to get them back [the Tenant] grabbed on to my boyfriends face and they started wrestling. As they started wrestling [the Tenant] threw my boyfriends glasses across the room.

I felt extremely scared while [the Tenant] was trying to attack my boyfriend, [the Tenant] was trying to stick his fingers down my boyfriends mouth and nose. While defending himself from [the Tenant] my boyfriend grabbed [the Tenant]'s glasses out of his face and [the Tenant] said "If you break my glasses ill fucking snap your neck". I kept telling [the Tenant] to stop and I tried to separate him from my boyfriend twice before [the Tenant] finally let go. He continued to scream and try to approach us very aggressively again while calling my boyfriend names like "bitch", "bitch ass little rich boy" and "bitchass mommas boy", he also threatened to my boyfriend saying he would "knock him the fuck out" and complained that my boyfriend would always sit on "his couch" (the couch in the living room), my boyfriend told [the Tenant] to get out of his face and to go into his room since [the Tenant] was clearly deranged at that moment and in a violent state at that moment. [the Tenant] was so agitated that he started to spit out and accumulate white foam around his mouth as he was screaming at us. Finally I said I'm gonna call the cops to which responded to with "yeah call the fucking cops so they can come kick you guys out". When I actually grabbed my phone to try call the cops [the Tenant] almost broke down to tears saying that there was no need to call them and that we could make up right then and there if I didn't call. He then said "please don't call you're going to ruin my life".

The lady on the line for 911 advised my boyfriend and I to go into my room and lock the door until the police arrived, so that is what we did. [the Tenant] said he was going to leave and exited the apartment. When the police arrived the lady on the line for 911 told us to stay on the line and go downstairs to meet up with the officers. When we arrived downstairs the police officers were already talking to [the Tenant], we all gave our statements to them. They told [the Tenant] to try to keep his distance from us and they told my

*boyfriend and I to try to avoid [the Tenant] as well. The police officer said that they would not charge him with assault this time, but they said to call them if he acted aggressively towards myself or my boyfriend again and that he would be charged.*

Sometime later on March 11, 2022, the female tenant left the apartment, and the Tenant kicked a hole in her bedroom door. She reported this to the Landlords including a photograph of the hole in the door. The Landlords uploaded this evidence in their documentary evidence. The female tenant is too scared to stay in the apartment, and she has not lived there since February 27, 2022. The Landlords uploaded two police file numbers that were issued for calls to the rental unit. The Landlord in the hearing stated that the female tenant did not want to participate in this teleconference as she is afraid of the Tenant.

The Tenant's Agent states that neither she nor the Landlords were present during these events and that the Tenant's version of events are different. She says he does not feel welcome in his own home and stays in his bedroom a lot of the time. She testified that the female tenant's boyfriend was blocking the door on the evening of March 10, 2022 and the Tenant could not leave to go downstairs and pick up his Uber Eats that the Tenant's Agent had ordered for him. She stated that the female tenant's boyfriend had knocked the Tenant's glasses off his face, and then he left the apartment. The Tenant's Agent said that the police told the boyfriend to leave the premises. The Tenant's Agent maintained that the Tenant feels threatened in his home by someone who does not live there.

The Landlord seeks to end this tenancy early and wants an Order of Possession.

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus, in this application, is on the landlord to prove, on a balance of probabilities, the grounds on which this application for an early end to tenancy were based. As this hearing was conducted pursuant to Rules of Procedure 7.3, in the Tenant's absence, all the Landlord's testimony is undisputed. The Tenant did not upload any evidence for this matter and the Tenant's Agent provided submissions for the Tenant.

In this matter, Section 56 of the Act is relevant:

***Application for order ending tenancy early***

- 56** (1) *A landlord may make an application for dispute resolution requesting*
- (a) 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 [landlord's notice: cause], and*
  - (b) an order granting the landlord possession 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.*

The Tenant's Agent submitted that this is a case of he said/she said, but I do not agree. The Landlords provided emailed messages from their female tenant to whom experienced first-hand the events testified. Section 75 of the Act states:

***Rules of evidence do not apply***

**75** *The director may admit as evidence, whether or not it would be admissible under the laws of evidence, any oral or written testimony or any record or thing that the director considers to be*

- (a) necessary and appropriate, and*
- (b) relevant to the dispute resolution proceeding.*

I find that the Tenant's conduct and actions as relayed by the female tenant's emailed description of events have significantly interfered with and unreasonably disturbed another occupant and the Landlord of the residential property. One tenant has already left on account of the Tenant's conduct and the current female tenant is not staying in the rental unit on account of her fear of the Tenant. It is true the Landlord and the Tenant's Agent were not present during the events of February 27, March 10 and 11, 2022, but I am satisfied that the Landlords have met their burden of proving on a balance of probabilities that the Tenant's tenancy must end early. Pursuant to Section 56(2)(b), I find it would be unreasonable, and unfair to the other occupant and the Landlord of the residential property to have to wait for a notice to end the tenancy under Section 47 of the Act to take effect.

I find the Landlords have satisfied me that an order to end this tenancy early is warranted and they are entitled to an Order of Possession, which will be effective two (2) days after service on the Tenant. In addition, having been successful, I find the Landlords are entitled to recover the application filing fee paid to start this application, which I order may be deducted from the security deposit held pursuant to Section 72(2)(b) of the Act.

**Conclusion**

The Landlords are granted an Order of Possession, which will be effective two (2) days after service on the Tenant. The Order of Possession may be filed in and enforced as an Order of the British Columbia Supreme Court.

The Landlords are entitled to recover the \$100.00 application filing fee and it may be deducted from the security deposit still held by the Landlords.

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.

Dated: April 3, 2022

---

Residential Tenancy Branch