



# 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.

An agent for the landlord, DP (agent) attended the teleconference 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 agent. Words utilizing the singular shall also include the plural and vice versa where the context requires.

As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Proceeding dated April 28, 2022 (Notice of Hearing), application and documentary evidence were considered. The agent testified that the Notice of Hearing, application and documentary/digital evidence were served on the tenant's door on April 28, 2022 by SB and witnessed by MH. Given the above, I find that the tenant was served as of May 1, 2022, pursuant to section 90 of the Act, which states that documents posted to the door are deemed served 3 days after they are posted. As the tenant did not attend the hearing, I find that this matter is unopposed by the tenant.

### Preliminary and Procedural Matters

The agent stated that as far as they know, the tenant is not in jail and is currently residing in the rental unit.

The agent confirmed their email addresses stated that they understood that the decision would be emailed to them. The decision will be sent by regular mail to the tenant as the landlord did not provide an email address for the tenant as it is not known.

### Issues 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 recover the cost of the filing fee under the Act?

### Background and Evidence

A copy of the tenancy agreement was submitted in evidence. The tenancy began on February 1, 2022.

The landlord writes in their application that on April 15, 2022 at 1:00 a.m. the tenant was seen on video surveillance for attempting to break into 3 other rental unit down the hallways from the tenant's unit. The video surveillance was reviewed during the hearing, which supports this information. In addition, video surveillance footage was reviewed which shows that shortly after the attempted break ins, the tenant was arrested by the police and handcuffed. The agents stated that they believe the tenant has since been released and are seeking an order of possession to protect other tenants from being broke into by this tenant.

The agent requested that the filing fee be offset from the tenant's security deposit of \$787.50.

The agent stated that the tenant has failed to pay rent for May 2022.

### Analysis

Based on the undisputed testimony and undisputed documentary and digital evidence provided during the hearing, and on a balance of probabilities, I find and I am satisfied that the tenant has engaged in illegal activity 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. I find the tenant attempted to break into 3 neighbouring units on the same floor as the tenant on April 15, 2022 at 1:00 a.m. 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 and other tenants in the building to wait for a notice to end tenancy under section 47 of the Act. I find the actions of the tenant and the documentary evidence before me to support that the tenant attempted to break into 3 other rental units. Furthermore, I find that such behaviour is unreasonable in any 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 service on the tenant. I find the tenancy ended the date of this hearing, **May 10, 2022**, pursuant to section 62(3) of the Act.

I note that the agent confirmed that rent for May 2022 has not been paid, which is why I grant an order of possession for 2 days after service on the tenant.

As the landlord's application had merit, I grant the landlord the recovery of their **\$100.00** filing fee pursuant to section 72 of the Act. I authorize the landlord to deduct \$100.00 from the tenant's security deposit of \$787.50 in full satisfaction of the recovery of the cost of the filing fee pursuant to sections 38, 67 and 72 of the Act. Pursuant to sections 38 and 62(3) of the Act, I find that the tenant's security deposit balance is \$687.50 effective immediately.

### Conclusion

The landlord's application is fully successful.

The tenancy ended this date, May 10, 2022.

The landlord is granted an order of possession effective two (2) days after service on the tenant. 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.

The tenant is reminded that they can be held liable for all costs related to enforcement of the order of possession.

The landlord is granted the recovery of their \$100.00 filing fee pursuant to section 72 of the Act. The landlord has been authorized to deduct \$100.00 from the tenant's security deposit of \$787.50 in full satisfaction of the recovery of the cost of the filing fee pursuant

to sections 38, 67 and 72 of the Act. I find that the tenant's security deposit balance is \$687.50 effective immediately.

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: May 10, 2022

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Residential Tenancy Branch