



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FFL, ET

### Introduction

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

- an early end to this tenancy and an Order of Possession, pursuant to section 56;
- authorization to recover the filing fee for this application, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses. The tenants were represented by tenant A.E.

The tenant disputed having received the landlords' application for dispute and evidentiary package. The landlords testified that they served both tenants by way of Canada Post Registered Mail on April 6, 2022. Copies of the Registered Mail receipts were included in evidence. A review of these receipts shows a date stamp consistent with the information provided by the landlords. The tenant could not identify why the application and evidence were not received, other than attributing the delay in receipt to a shipping error. Pursuant to sections 88, 89 & 90 of the *Act*, the tenants are deemed served with the application and evidence on April 11, 2022, five days after their posting.

Both parties confirmed they were not recording the hearing pursuant to section 6.11 of the Rules of Procedure.

### Issue(s) to be Decided

Should the landlords be granted an Order of Possession?  
Can the landlords recover the filing fee?

### Background and Evidence

The tenant confirmed this tenancy began on March 1, 2022. Rent is \$2,250.00 per month and a security deposit of \$1,050.00 paid at the outset of the tenancy continues to be held in trust by the landlords. Tenant A.E. explained she did not actually occupy the rental unit, but rather was the guarantor who signed the agreement on behalf of her step-daughter, R.E. who occupied the suite. A.E. stated she lived in the greater Vancouver area, while R.E. occupied the suite located in Shuswap regional district.

The landlords have applied for an Order of Possession via an early end of tenancy application. The landlords explained they had serious concerns related to a water/flood issue associated with the tenant's use of the shower.

The landlords detailed flooding instances that had occurred on March 6, 7, 8, 25, and 28<sup>th</sup>. Tenant A.E. did not dispute the dates or flooding events as described by the landlord.

The landlords explained that while the flooding issue had been fixed after changes were made to the shower, specifically a replacement of the shower head and extra caulking around the faucet area, they remained anxious about possible future flooding events. The landlords said they suspected the tenant had been using the shower in an improper manner and had greatly disturbed the downstairs tenants due to the repeated flooding and damage to which they had been subjected.

### Analysis

Section 56 of the *Act* requires the landlord to show, on a balance of probabilities, that the tenancy must end earlier than the thirty days indicated on a 1 Month Notice, due to the reasons identified in section 56(2) of the *Act* and that it would be unreasonable or unfair for the landlord or other occupants to wait for a 1 Month Notice to take effect, as per section 56(2)(b).

On a balance of probabilities and for the reasons stated below, I find that the landlords' application fails the second part of the test under section 56(2)(b) of the *Act*. I find that the landlords did not provide sufficient evidence that it would be "unreasonable" or "unfair" to wait for their 1 Month Notice to be decided on the merits of a 1 Month Notice.

While I make no finding of fact related to the damage caused by the tenant's use of the shower, I find, by the landlords' own admission that the leaking has stopped and is no

longer is an issue of immediate concern after extra caulking was done to the shower area and the showerhead was replaced.

The landlords expressed anxiety around possible future flooding events, however, I decline to grant an order of possession on their speculation that something may transpire. Ending a tenancy early is an extreme step that is reserved for the most egregious of issues faced by landlords and for these reasons, I dismiss the landlords' application for an early end of tenancy.

For these reasons, I dismiss the landlord's application for an early end to this tenancy. This tenancy shall continue until it is ended in accordance with the *Act*.

### Conclusion

The landlords' application for an Early End of Tenancy is dismissed. This tenancy shall continue until it is ended in accordance with the *Act*.

The landlords must bear the cost of their own filing fee.

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: May 04, 2022

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Residential Tenancy Branch