



# 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 under the *Residential Tenancy Act* (the "Act") for:

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

The Landlord's agent YB and the Tenant attended this hearing. They were given a full opportunity to be heard, to present affirmed testimony, and to make submissions.

All attendees at the hearing were advised the Residential Tenancy Branch Rules of Procedure (the "Rules of Procedure") prohibit unauthorized recordings of dispute resolution hearings. They confirmed that they were not recording this dispute resolution hearing.

The parties did not raise any issues with respect to service of dispute resolution documents. The Landlord submitted a registered mail receipt and signed Proof of Service form in support of service. The Tenant relied on oral testimony for this application.

### Issues to be Decided

1. Is the Landlord entitled to end the tenancy early and an Order of Possession?
2. Is the Landlord entitled to recovery of the filing fee?

### Background and Evidence

While I have turned my mind to all the accepted documentary evidence and the testimony presented, only the details of the respective submissions and arguments relevant to the issues and findings in this matter are reproduced here. The principal aspects of this application and my findings are set out below.

The Landlord submitted a copy of the parties' tenancy agreement into evidence. The parties confirmed the particulars of the tenancy as follows:

- The tenancy commenced on October 1, 2018 and is month-to-month.
- Rent is \$1,215.00 per month, due on the first day of each month. The Tenant pays \$557.00 per month and the rest of the rent is subsidized by BC Housing.
- The Tenant paid a security deposit of \$607.50, which is held by the Landlord.

YB testified that on May 12, 2022, there was a targeted drug-related shooting on the rental property. YB testified the victim was the Tenant's guest. YB testified that the assailant had arrived at the rental property by car, called the victim out by name and shot him 5 times. YB stated that the victim survived the shooting.

The Landlord submitted copies of a property manager incident report, a news article of the shooting, and a photograph showing police and ambulance attending at the rental property.

YB stated that the rental property is a family complex. YB testified that other tenants in the complex are traumatized and scared. The Landlord submitted copies of emails from other tenants in the rental property reporting the incident and stating that they are scared. YB confirmed that none of the other tenants want their names to be released.

YB testified that the Landlord has received a further report which indicates the Tenant and other residents of the rental unit have not expressed any remorse over the events that occurred, but are back to partying, drinking, and inviting shady people to the rental unit.

YB emphasized that the shooting was targeted and that the Tenant is responsible for the behaviour of her guests. YB stated that the only solution in the circumstances is to evict the Tenant.

The Tenant testified she doesn't know why the community is saying they are afraid of the Tenant and her friends. The Tenant stated that there are a lot of people in the community drinking and doing drugs.

The Tenant testified the incident happened because the Tenant's guest was trying to "protect" the Tenant's son. The Tenant explained that the assailant had tried to "solicit" and "recruit" her underage son. The Tenant testified that the assailant is known for waiting outside the Tenant's son's school.

The Tenant testified that others in the rental property are "watching" her and reporting back to a person who is a "drug dealer".

The Tenant testified that on the night of the shooting, she had gone to a nearby store with her guest. The Tenant stated the assailant came up to her vehicle and asked, "Are you guys here for the drugs?" The Tenant testified she replied, "We don't do drugs, get out of here." The Tenant testified they walked away, and she realized the assailant as the person who was picking on her son.

The Tenant stated that a few hours later, the assailant and another person were driving in and out of the rental property. The Tenant stated she thought it was going to be a fight. The Tenant stated that as soon as her guest stepped outside, the assailant and the other individual started shooting. The Tenant stated she did not hear what they were saying. The Tenant confirmed that her son was not at the rental unit on the night of the shooting.

### 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 to prove their case is on the person making the claim.

#### *1. Is the Landlord entitled to end the tenancy early and an Order of Possession?*

In this case, the Landlord bears the onus of proving that this tenancy should be ended early and an Order of Possession be granted.

Section 56 of the Act states as follows:

**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.

Based on YB's testimony and the evidence submitted by the Landlord, I am satisfied on a balance of probabilities that an early end to the tenancy is warranted in the circumstances. In particular, I find that the Tenant's guest placed himself and others on the rental property in significant risk when he went outside to meet the assailant on the night of May 12, 2022. I find the Tenant acknowledged that she and her guest knew

who the assailant was. I find, based on the Tenant's statement that her guest was shot for protecting the Tenant's son from being "recruited", that the Tenant's guest was not an innocent victim of a random shooting. Therefore, I am satisfied on a balance of probabilities that a person permitted on the residential property by the Tenant has seriously jeopardized the health, safety, and lawful right or interest of other occupants in the rental property. Accordingly, I find the Landlord has met the onus of proving that this tenancy should end early under section 56(2)(a)(ii) of the Act.

In addition, I find the Landlord has established, pursuant to section 56(2)(b) of the Act, that it would be unreasonable and unfair for the Landlord and the other occupants of the rental property to wait for a notice to end the tenancy under section 47 to take effect. I am satisfied that it would be unreasonable and unfair because of the seriousness of the incident and the risk created by the Tenant's association with the victim. Moreover, I find that the Landlord has a duty to ensure the safety of the other occupants in the rental property. I am satisfied that a targeted shooting puts the safety of other occupants in the rental property into serious jeopardy. I find that there is an immediate and ongoing risk to the health, safety, and lawful interest of the other tenants, while the Landlord is also exposed to potential liability. Therefore, I find it would be unreasonable and unfair for the Landlord and the other occupants to wait for a notice under section 47 to take effect.

Having found the requirements in sections 56(2)(a)(ii) and 56(2)(b) of the Act to be met in the circumstances, I conclude that this tenancy should be ended early.

*2. Is the Landlord entitled to recovery of the filing fee?*

As the Landlord has been successful in this application, I grant the Landlord's claim for recovery of the \$100.00 filing fee under section 72(1) of the Act.

Pursuant to section 72(2)(b) of the Act, I order that the Landlord is authorized to deduct \$100.00 from the \$607.50 security deposit held by the Landlord in full satisfaction of the amount awarded in this application.

Conclusion

The Landlord has met the burden of proving that the tenancy should end early.

Pursuant to section 56(2) of the Act, I order that the tenancy is ended the date of this decision, June 30, 2022.

Pursuant to section 56(2), I grant an Order of Possession to the Landlord effective two (2) days after service upon the Tenant. The Tenant must be served with this Order as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The Landlord is authorized to deduct \$100.00 from the Tenant's security deposit on account of the filing fee awarded in this application. The balance of the Tenant's security deposit shall be dealt with in accordance with the Act, the Residential Tenancy Regulation, and the parties' tenancy agreement.

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: June 30, 2022

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Residential Tenancy Branch