



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 1344067 BC Ltd  
and [Tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ET, FFL

### Introduction

The Landlord filed an Application for Dispute Resolution on May 4, 2022 seeking an order for early termination of the tenancy. This is an expedited hearing process, filed by the Landlord on an emergency status, on the basis that the Tenant poses an immediate and severe risk to the property, other occupants or the Landlord. The matter proceeded by way of a conference call hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on May 31, 2022. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The Landlord attended the hearing; the Tenant did not.

### Preliminary Matter – service of Notice to the Tenant

The Landlord stated they delivered notice of this hearing to the Tenant via registered mail. This was sent on May 4, the same day they received that notice from the Residential Tenancy Branch. The Landlord provided a tracking number in their evidence and stated the Tenant did not retrieve the item from the post office. The registered mail was returned to the Landlord, unclaimed by the Tenant. The Landlord had no communication with the Tenant since that time.

From what the Landlord presented here on notifying the Tenant via registered mail, I am satisfied they served the Tenant notice of this hearing, as stated, on May 4, 2022. As per s. 90(a), I deem the notice received by the Tenant on May 9, 2022, on the fifth day after it was mailed.

### Issues to be Decided

- Is the Landlord entitled to an order of possession that ends the tenancy for cause and without notice by section 56 of the *Act*?
- Is the Landlord entitled to recover the filing fee for this Application pursuant to section 72 of the *Act*?

### Background and Evidence

In the hearing, the Landlord provided that they came into this landlord-tenant relationship new in April 2022. The agreement provides that the Tenant pays \$612 on the first day of each month.

The Landlord gave evidence to show how they feel the conduct of the Tenant is sufficient reason to end the tenancy in an expedited fashion. This stems from the Tenant's interactions with other residents in the same building, as well as the Landlord directly.

The Landlord visited the Tenant in early April when they became the new Landlord in that building. The Tenant would not introduce themselves, and closed the door abruptly on the Landlord's foot after stating the Landlord could call the police if they so wished. This was witnessed by two other building residents.

Other residents informed the Landlord that the police arrested the Tenant "on multiple occasions", and since the Landlord came to manage this rental unit property, the Tenant was arrested twice. The Landlord was personal witness to an incident in early May involving the Tenant and garbage, when the police visited and made the Tenant sort out the garbage mess they created.

The Landlord presented this was a legitimate safety concern for other Tenants, relying on the following evidence to do so:

- another resident's statement wherein they describe the Tenant following them within the building, then kicking the door that hit the resident's hand – on this, the Landlord was not sure if the police were called
- another resident's accounts of incidents throughout 2021, with reference to specific dates and detailed descriptions – this involved a lot of yelling to others, where "[The Tenant] abused 14 seniors in here and is getting worse"

- another resident's account of the interruptions and noise that stemmed from the Tenant
- a comprehensive account from the third-party agency that assists special needs residents within the building, from January 2021 through to April 2022, involving a lot of cursing and yelling.

The Tenant did not attend the hearing and did not submit documentary evidence for consideration.

### Analysis

The *Act* s. 56 provides that a tenancy may end earlier than a normal prescribed period if one or more of the outlined conditions applies. These conditions reflect dire or urgent circumstances. The legislation regarding an order of possession reads as follows:

- 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 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.

This following subsection sets out two criteria. First, the Landlord must prove the cause for issuing the Notice. Second, the evidence must show it would be unreasonable or unfair to the Landlord to wait for a set-period Notice to End Tenancy to take effect under a different s.47 of the *Act*. The determination of cause considers the following situations of immediate and severe risk:

56(2) . . .

- (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 . . .

I have considered the evidence of the Landlord concerning the conduct of the Tenant.

The *Residential Tenancy Branch Policy Guideline* (that which gives a statement of the policy intent of the legislation) #51 sets out that applications to end a tenancy in an expedited manner are for very serious breaches only and require sufficient supporting evidence. The guideline provides examples, including acts of assault, vandalism, production of illegal narcotics, and sexual harassment.

The issues with this Tenant appear to have pre-existed throughout 2021, as provided in the document setting out the fulsome account of support staff to other residents in the building. The long-standing nature of the issue weighs against a finding that it would be unreasonable or unfair to wait for a set-period Notice to End Tenancy to take effect. Typically, this is a One-Month Notice to End Tenancy for Cause, as set out in s. 47 of the *Act*.

In sum, an order ending the tenancy in an expedited manner is only for sufficiently serious incidents. What the Landlord presented here was not an urgent situation, even though there has been a sustained period of interruption and a high-level of discomfort to other building residents for quite some time.

I find the Landlord has not shown that it would be unreasonable or unfair to wait for a One Month Notice to End Tenancy for Cause to take effect. Accordingly, I dismiss the Landlord's Application for this reason.

Because the Landlord was not successful in their Application, I find they are not entitled to reimbursement of the Application filing fee.

### Conclusion

As per the above reasons, I dismiss this Application, without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: June 2, 2022