



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BRITISH COLUMBIA HOUSING MANAGEMENT  
COMMISSION and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ET

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on May 9, 2022. The Landlord applied for an order of possession pursuant to section 56 of the Residential Tenancy Act (the Act).

The Landlord was represented at the hearing by TB, SA, and CO, agents. The Tenant attended the hearing and was assisted by DD, a legal advocate. Also in attendance with the Tenant was CB, a law student, who did not participate during the hearing. TB, SA, CO, and the Tenant provided a solemn affirmation at the beginning of the hearing.

The Landlord testified the Notice of Dispute Resolution Proceeding package was served on the Tenant by attaching a copy to the Tenant's door on May 13, 2022, and that service in this manner was witnessed by SA. The Tenant acknowledged receipt of these documents.

The Tenant testified that the evidence upon which he relies was served on the Landlord by leaving a copy in the mail slot at the manager's office on May 31, 2022. TB acknowledged receipt of these documents

No issues were raised during the hearing with respect to service or receipt of the above documents. The parties were in attendance or were represented and were prepared to proceed. Therefore, pursuant to section 71 of the Act, I find the above documents were sufficiently served for the purposes of the Act.

The parties were advised that Rule of Procedure 6.11 prohibits the recording of dispute resolution hearings. They confirmed they were not recording the hearing.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue

Is the Landlord entitled to an order of possession?

### Background and Evidence

The parties agreed the tenancy began on December 1, 2020. Rent is geared to income. Currently, the Tenant pays rent of \$328.00 per month on or before the first day of each calendar month. The Tenant did not pay a security deposit or a pet damage deposit. A copy of the signed tenancy agreement was submitted into evidence.

The Landlord wants to end the tenancy. TB testified that the Tenant's behaviour has escalated over the course of the tenancy. TB testified that in or about December 2021 the Landlord started receiving complaint letters about noise and threats, and that these issues continue.

The Landlord submitted an email dated January 26, 2022. In it, MSO indicates the Tenant made multiple threats to kill him and threatened to rape him. MSO also states the Tenant consistently and aggressively bangs on floors and walls, plays loud music at all times of day, and constantly screams profanities. These complaints were also set out in a Complaint Resolution form, a copy of which was submitted into evidence.

The Landlord also submitted complaint letters from KM, dated January 28 and February 3, 2022. The letters refer to noises like "bowling balls" in the early morning hours but do not specifically name the Tenant.

In a complaint letter from EA dated February 3, 2022, the writer complains of "excessive noise after midnight...for roughly 3 – 4 hours", three or four times per week. The noise is described as "heavy furniture being dragged...things being dropped." Further, EA states they have experienced broken sleep, tension, muscle pains, nightmares, and anxiety. The letter does not specifically identify the Tenant but indicates the noise is coming from above.

In response to these and other complaints, the Landlord issued a warning letter to the Tenant dated February 7, 2022, a copy of which was submitted into evidence. This was the second warning letter issued to the Tenant, the first being dated January 11, 2022. The second warning letter referenced “extensive noise disturbances”, threats, and the use of profanities.

On behalf of the Landlord, TB also referred to a subsequent complaint from MSO dated February 10, 2022, which states:

...[the Tenant] constantly threaten me whenever we cross paths. Threats include...stating that they plan to beat me, rip me into pieces, rape me, calling me a fucking rat, fucking goof, and racist remarks.

MSO also claimed in the letter that the Tenant attacked his door with an axe on November 6, 2021, causes “excessive noise” such as “screaming at things and others...aggressively slamming objects against the wall, ceiling, floor, and blasting music.” MSO also stated that he has had to sleep in his vehicle to avoid being woken up from “banging and screaming”.

TB also referred to an email from SA to AP, agents of the Landlord, dated March 22, 2022. The email referred to a “confrontation” with the Tenant, during which the Tenant “started call me names like F goof coo....Sucker so on so on...” In a further email dated April 1, 2022, SA described an incident where the Tenant threatened to pour gasoline on himself and light it on fire.

In addition, the Landlord relied on a complaint from MA dated April 11, 2022. The complaint refers to “banging, kicking, and loud noises.” In another hand-written complaint dated April 15, 2022, MA indicates that the situation is “getting more dangerous and worse” and noted that they had to sleep in their car for two weeks due to the disturbance.

In a further complaint letter dated April 18, 2022, MSO refers to retaliation by the Tenant, including screaming profanities, throwing objects against the wall, and aggressive behaviour. MSO advised that their health deteriorated as a result.

The Landlord also submitted a letter from MM dated May 12, 2022, which describes “loud banging noises...throughout the day and night.”

The Landlords wrote a further letter to the Tenant dated May 18, 2022. The letter describes disturbances including shouting profanities out the rental unit window using a megaphone. The letter also referenced a signed note from the Tenant in response to a request for a meeting to address the above issues. Although difficult to read, the note states, in part:

DEAR [AP] KUNT FUCK OFF.  
I CANT MAKE IT TO YOUR  
K.G.B. MEETING  
(KUNT. GOOF. BITCH.)  
SO I SUGGEST YOU  
RESPECTFULLY GO AND  
SUCK A DICK; AS I  
HAVE A PREVIOUS  
ENGAGEMENT  
...  
FUCK YOU CUNT

TB also testified that the Tenant has damaged the rental unit. The Landlord submitted an invoice dated February 18, 2022 for \$616.57. TB testified the Landlord had to replace a cooking range that was damaged by the Tenant. Photographs of damage were submitted into evidence. Further, the Landlord submitted a quote dated April 27, 2022 for \$2,379.25. TB testified the Landlord has to replace carpet that was damaged by the Tenant. A photograph of a stained carpet was submitted into evidence. In response, the Tenant acknowledged that he damaged the oven door when he accidentally dropped his bike. However, he questioned whether it was necessary to replace the whole oven.

TB testified that she believes the Tenant's behaviour is "out of control" and that the tenancy needs to end.

In reply, in response to questioning by DD, the Tenant denied that he threatened to kill another tenant. Instead, the Tenant asserted that the tenant below threatened to get Hell's Angels to kill him. The Tenant also testified that he never took an axe to MSO's door. He described these allegations as "absurd". Further, DD submitted that the evidence of threats with an axe in November 2021 are not credible because the Landlord would have followed up earlier. However, the Landlord did not take steps to end the tenancy until much later. DD submitted that MSO's allegations of threats of violence were inconsistent with the evidence and should be disregarded.

With respect to noise complaints, the Tenant testified that he hears noises from other rental units – including drumming sounds at all hours of the night –and acknowledged that he sometimes bangs on the walls to get them to stop. The Tenant testified that he stopped complaining because there was no resolution.

In addition, DD noted that the complaint letters dated January 28 and February 3, 2022, do not name the Tenant as the cause of the noise. DD submitted that the noise should not be attributed to the Tenant, particularly considering the Tenant's denials.

The Tenant also claimed that SA, the building manager, made a gesture to hit him but was unable to recall the date. TB responded by stating that if that had occurred, SA would be fired, and noted that police did not follow up by recommending charges.

The Tenant also testified that he requested a transfer to another rental unit because of his neighbours below. The Tenant claimed to smell drugs from the rental unit below.

With respect to the letter dated January 11, 2022, DD submitted that not all the noise was attributed to the Tenant. DD also noted that the Act requires the Landlord to demonstrate that it would be unreasonable to wait for a notice to end tenancy under section 47 to take effect.

DD also acknowledged that the hand-written note to AP was rude but did not constitute a threat to staff.

DD also submitted that the Landlord has not made out the claim for extraordinary damage.

### Analysis

Based on the documentary evidence and affirmed oral testimony, and on a balance of probabilities, I find:

Section 56 of the Act permits a landlord to end a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 of the Act. The circumstances which permit an arbitrator to make these orders are enumerated in section 56(2) of the Act, which states:

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...

- (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.

In this case, I find it is more likely than not that the noises referred to in the complaint letters from MSO, MM, EA, and KM were caused by the Tenant. I also find it is more likely than not that the Tenant made the threats alleged by MSO. This finding is supported by consistent letters of complaint from MSO, and by what I find to be an aggressive and offensive note to AP. This finding is also supported by SA's emails dated March 22 and April 1, 2022, which I accept as contemporaneous records of name-calling and threats of self-harm by the Tenant. I find that these behaviours continued despite warnings from the Landlord. As a result, I find the Tenant has significantly interfered with or unreasonably disturbed other occupants and the Landlord.

Further, given the ongoing nature and severity of the Tenant's behaviours, I find it would be unreasonable or unfair to the Landlord to wait for a notice to end the tenancy under section 47 of the Act.

I find the Landlords have demonstrated an entitlement to an order of possession, which will be effective two (2) days after service on the Tenant.

### Conclusion

The Landlord is granted an order of possession, which will be effective two days after it is served on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

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 7, 2022

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Residential Tenancy Branch