



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET, FFL

### Introduction

The Landlord applies for an early termination of the tenancy and order for possession pursuant to s. 56 of the *Residential Tenancy Act* (the “Act”). The Landlord also seeks the return of her filing fee pursuant to s. 72.

W.G. appeared as the Landlord and was joined by A.T., her Agent. The Tenants did not attend, nor did someone attend on their behalf. The Agent advised that the Landlord’s English was insufficient for her to participate in the hearing and that the Agent would be making submissions on behalf of the Landlord.

Pursuant to Rule 7.1 of the Rules of Procedure, the hearing began as scheduled in the Notice of Dispute Resolution. As the Tenants did not attend, the hearing was conducted in their absence as permitted by Rule 7.3 of the Rules of Procedure.

The parties affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. The parties confirmed that they were not recording the hearing. I further advised that the hearing was recorded automatically by the Residential Tenancy Branch.

The Agent advised that the Notice of Dispute Resolution and the Landlord’s evidence, including the video evidence provided to the Residential Tenancy Branch, was served on the Tenants by way of registered mail sent on April 29, 2022. Proof of service forms and registered mail tracking receipts were provided by the Landlord. I find that the Landlord served the Notice of Dispute Resolution and her evidence in accordance with s. 89 of the *Act* by way of registered mail sent on April 29, 2022. Pursuant to s. 90 of the

Act, I deem that the Tenants received the Landlord's application materials on May 4, 2022.

### Issues to be Decided

- 1) Is the Landlord entitled to an order for possession without issuing a notice to end tenancy?
- 2) Is the Landlord entitled to the return of her filing fee?

### Background and Evidence

The parties were given an opportunity to present evidence and make submissions. I have reviewed all written and oral evidence provided to me by the parties, however, only the evidence relevant to the issues in dispute will be referenced in this decision.

The Agent confirmed the following details with respect to the tenancy:

- The Tenants took occupancy of the rental unit on December 1, 2015.
- Rent is currently payable in the amount of \$980.00 on the first day of each month.
- The Landlord holds a security deposit of \$100.00 in trust for the Tenants.

A copy of the written tenancy agreement was put into evidence by the Landlord. The Agent described the rental unit being part of a multi-unit residential property.

The Agent advised that K.A. has been disruptive for a number of years. The Agent advised of generalized conduct by K.A., which was said to have caused the Landlord's to previously lose tenants at the property. These include banging on doors, yelling, following other tenants at the building (in some instances for miles away from the residential property), and peeking through the windows of other tenants at the building. The Agent indicates that the Landlord had not previously issued a One-Month Notice to End Tenancy with respect to the Tenant K.A.'s conduct. It was argued K.A.'s conduct has deteriorated as of late, which precipitated the present application.

A letter from L.C. dated April 23, 2022 is put into evidence by the Landlord. The Agent confirmed that L.C. is a current tenant at the residential property. The letter describes L.C.'s concern for herself and her family and a worry of danger respecting K.A.'s conduct. It says that K.A. knocks on their door, attempts to enter their rental unit, and rings their doorbell late at night, waking L.C. and her family. L.C. describes how K.A.

peers through her children's window and knocks on it to wake them. L.C. further says that her 12-year-old daughter is afraid to come home after school as K.A. would follow her to the rental unit and yell at her. L.C. further states that she has a newborn and that she and the newborn cannot sleep at night due to K.A. screaming and banging on walls.

A second letter from G.H. and I.H., which is undated, is put into evidence by the Landlord. The Agent confirmed that G.H. and I.H. are current tenants at the residential property. The letter describes "high levels of noise disturbances coming from the downstairs" and that the tenants had been experiencing disruptions morning, noon, and night. Screaming is described. The letter describes guests being followed to their cars and that there has been "aggressive yelling, screaming, banging on [their] front door, etc.", including attempts to open the door to the rental unit. Another instance is described where the individual had followed them for some blocks away from the residential property. The letter says that the individual has been yelling at the other tenant's baby to stop crying and says that he has been heard shouting "filipinos go home". An incident with respect to cigarette butts being left at the entrance of their rental unit was also described. The letter concludes with an expression that they are fearful of returning to their home given the level of conduct.

The Agent advised that the Landlord is receiving near daily complaints from the other tenants with respect to the Tenant K.A.'s conduct.

The Agent advised two warning letters were issued and that the Tenants did not respond to either letter. Letters dated March 2, 2022 and March 23, 2022 were put into evidence by the Landlord. The letter of March 2, 2022 indicates that the police had attended the rental unit on March 1, 2022 following a complaint from the other tenants at the property to the police. The letter also mentions that the Tenant K.A. was running nude around the property, yelling at others, and using foul language. The letter of March 23, 2022 indicates that the Tenant K.A. had broken down a fence, threw a chair onto the neighbouring property, and yelled at the neighbours.

A series of three videos were put into evidence by the Landlord. They show an individual knocking on the door of one of a rental unit and walking away and looking through a window adjacent to the door.

The Agent confirmed that the Tenant continues to reside at the property.

## Analysis

The Landlord applies for an early termination of the tenancy pursuant to s. 56 of the *Act*.

A landlord may end a tenancy early under s. 56 where a tenant or a person permitted on the residential property by the tenant:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- put the landlord's property at significant risk;
- engaged in illegal activity that has caused or is likely to cause damage to the landlord's property, 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 has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord; or
- caused extraordinary damage to the residential property,

These grounds, as set out in s. 56(2)(a), mirror those found within s. 47(1)(d) to (f). The key difference between ss. 47 and 56 is that under s. 56(2)(b) a landlord is not required to issue a notice to end tenancy on the basis that it would be unreasonable or unfair to the landlord or other occupants of the residential property to wait for a one-month notice given under s. 47 to take effect.

Policy Guideline #51 sets out, at page 4, that applications to end a tenancy early are for very serious breaches only and require sufficient supporting evidence. Policy Guideline 51 provides examples, including acts of assault, vandalism, production of illegal narcotics, and sexual harassment.

The Landlord's evidence was undisputed as the Tenants did not attend nor did they provide evidence in response. I have reviewed the evidence and, when viewed on the whole, I find that the Landlord is entitled to an order for possession under s. 56.

I place significant weight in the letters provided by the Landlord from the current tenants at the building. The letters confirm a pattern of conduct of the Tenant K.A. which I can only describe as a significant disturbance to the other tenants right to the quiet enjoyment of their property. In particular, L.C. describes how K.A. has been knocking on the window to her child's room and has been peering through the window. Further mention is made with respect to K.A. following L.C.'s 12-year-old daughter, screaming at her and directing foul language to her. This behaviour is deeply disturbing. L.C. and

her children are understandably fearful within their own home. The Agent and the other tenants describe how K.A. has followed them away from the property. Both letters confirm K.A. knocked on their door and attempted to open their doors. This type of behaviour is confirmed by the video provided by the Landlord. I find that the other occupants are reasonably afraid of the Tenant K.A. given the nature of the conduct described.

Further, the incident of March 1, 2022 appears to be a further significant disturbance to the other occupants right to quiet enjoyment, which the Agent confirmed was after the other occupants called the police due to the Tenants conduct. I am advised by the Landlord and accept that the Tenant K.A. was running nude through the property and yelling at the other occupants. I am further advised by the Landlord and accept that the Tenant K.A. knocked over the fence at the property, which is a wilful destruction of the Landlord's property. The incident with the fence took place or about March 21, 2022.

I have considered the length of time with respect to the Tenant's conduct and the fact that the Landlord admits that they have previously lost tenants due to K.A. and that no previous One-Month Notice had been issued. Though the Tenant's conduct may have been problematic for some time, I accept the undisputed testimony of the Landlord's agent indicating that it has recently deteriorated and that she has been receiving near daily complaints with respect to the Tenant's conduct.

I find that the Tenant's conduct constitutes a significant disturbance to the building's other occupants. I further find that it would be unreasonable and unfair to the other building's occupants to wait for a One-Month Notice to take effect given the nature of the conduct, particularly as it relates to the disturbances to the other tenant's children, and the fact that this has resulted in daily complaints. The Tenant's conduct has persisted without abating and has deteriorated as of late. The Landlord's two warning letters went ignored despite the seriousness of the allegations contained within them.

I find that the Landlord has established that an order for possession under s. 56 is warranted and she shall have that order. The Tenants shall provide vacant possession of the rental unit within two days of receiving this order.

Conclusion

The Landlord has made out her claim under s. 56 and is entitled to an order for possession. I order that the Tenants provide vacant possession of the rental unit to the Landlord within **two (2) days** of receiving the order for possession.

As the Landlord was successful in her application, I find she is entitled to the return of her filing fee. Pursuant to s. 72(1) of the *Act*, I order that the Tenants pay \$100.00 for the Landlord's filing fee. I direct pursuant to s. 72(2) of the *Act* that the Landlord withhold \$100.00 from the security deposit it holds for the Tenant in full satisfaction of her filing fee.

It is the Landlord's obligation to serve the order for possession on the Tenants. If the Tenants do not comply with the order for possession, it may be filed by the Landlord with the Supreme Court of British Columbia and enforced as an order of that Court.

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 17, 2022

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Residential Tenancy Branch