



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ET, FFL

### Introduction

The Landlord filed an Application for Dispute Resolution on April 13, 2022 seeking an order to end the tenancy on the basis that the tenant poses an immediate and severe risk to the property, other occupants or the landlord. Additionally, they applied for reimbursement of the Application filing fee. The matter proceeded by way of a conference call hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “*Act*”) on June 2, 2022. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The agent for the Landlord (hereinafter the “Landlord”) attended the hearing; the tenant did not.

### Preliminary Matter – the Landlord’s notification to the Tenant

The Landlord stated they delivered notice of this hearing to the Tenant in person on the day they received it from the Residential Tenancy Branch, April 27, 2022. They had to have the police attend in order to serve the document without incident. The Landlord identified that the Tenant knew about the date and time of the hearing, from comments the Tenant made to the Landlord in the interim period.

From this affirmed testimony, I find the Landlord served notice of this hearing to the Tenant, in a manner prescribed by the *Act*. This is what the *Act* requires as per s. 59(3). With valid service in place, I conducted the hearing in the Tenant’s absence.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession that ends the tenancy for cause and without notice by s. 56 of the *Act*?

Is the Landlord entitled to recover the filing fee for this Application pursuant to s. 72 of the *Act*?

Background and Evidence

The Landlord confirmed there was a tenancy agreement in place. This started on October 1, 2021, with a rent amount of \$2,500 to be paid monthly

The Landlord provided evidence for the hearing. This included notices from the rental property city, who notified the Landlord of nuisances that imposes fines to the Landlord. The Landlord included images of bylaw offence notices, for issues surrounding the state of the rental property that required extensive cleanup.

The Landlord also included messages to/from the Tenant, wherein the Tenant describes their impressions that the Landlord is watching them with cameras installed in the rental unit. This also included the allegation that the Landlord “highjacked [the Tenant’s] phone”. According to the Landlord, on the occasions they were able to inspect the rental unit, this led the Tenant to damage the walls of the rental unit, described as the Tenant’s attempt to uninstall the cameras/mics, or prove their existence. This led to a large hole in the outer wall of the rental unit that adjoins to the covered parking space outside.

The Landlord included images of the interior of the rental unit showing burn marks on the walls throughout. The Landlord described this as areas on the walls where the Tenant burned through with a blowtorch. Additionally, the Landlord described viewing screws bolting doors shut within the rental unit. They described at least \$10,000 damage to the rental unit, for the drywall that would need replacement throughout the rental unit.

The Landlord referred to bylaw fines and police fines in the hearing. The Tenant’s reaction to these incidents, and the Landlord scheduling this hearing, was to withhold rent, and then demand a large amount of money to move out from the rental unit.

Analysis

The *Act* s. 56 of the *Act* 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' notice: cause*], and
  - (b) granting the landlord an order of possession in respect of the rental unit.

Following this, s. 56(2) 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 section 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' property at significant risk;**
    - (iv) engaged in an 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 and testimony of the landlord concerning the ongoing state of the rental unit, and the Tenant's statements to the Landlord described here. I find there is sufficient evidence to show the Tenant is a source of legitimate, serious concern of significant risk to the property, as well as the safety of the Landlord, who requires police presence when the visit to the rental unit. This is as set out in s. 56(2)(a) – I find each subsection applies to this situation.

From the evidence I am satisfied that the facts of the situation prove cause. Secondly, I find it unfair for the Landlord to wait for a set-period Notice to End Tenancy to take effect. I find what the Landlord presents merits an expedited end to the tenancy. I so grant an Order of Possession in line with this rationale.

As the Landlord was successful in this application, I find they are entitled to recover the \$100.00 filing fee paid for this application. I grant the Landlord a monetary order for this amount.

### Conclusion

For the reasons above, I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenant. Should the Tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to s. 72 of the *Act*, I grant the Landlord a Monetary Order for the recovery of the filing fee paid for this application. The landlord is provided with this Order in the above terms and 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 Small Claims Division of the Provincial Court 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 s. 9.1(1) of the *Act*.

Dated: June 3, 2022

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Residential Tenancy Branch