



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 1284969 BC LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ET FFL

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for an order to end the tenancy early due to urgent health or safety reasons and receive an order of possession, and to recover the cost of the filing fee.

Two landlords, TM and MM (landlords), the co-owner of the building, GV (co-owner), counsel for the landlord, RH (counsel) and the tenant RL (tenant) attended the teleconference hearing. The parties gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me. Counsel was provided the opportunity to provide submissions. The hearing process was explained and an opportunity to ask questions was provided to both parties.

Although a witness, JM (witness) attended the hearing, due to the witness failing to disconnect after they were asked to do so, I excluded the witness from the proceeding pursuant to Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 7.20.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

### Preliminary and Procedural Matters

Firstly, pursuant to section 64(3)(c) of the Act, I have amended the name of the tenant to include an alias as the landlord confirmed the tenant goes by more than one name. I have reflected this on the cover page of this Decision and any applicable order(s). In addition, the tenant requested an adjournment to consult with their legal counsel. The tenant was asked who their legal counsel was, and the tenant could not recall their

name. I have considered the criteria for adjournment under RTB Rule 7.9 which apply and state:

**7.9 Criteria for granting an adjournment**

Without restricting the authority of the arbitrator to consider other factors, the arbitrator will consider the following when allowing or disallowing a party's request for an adjournment:

- the oral or written submissions of the parties;
- the likelihood of the adjournment resulting in a resolution;
- the degree to which the need for the adjournment arises out of the intentional actions or neglect of the party seeking the adjournment;
- whether the adjournment is required to provide a fair opportunity for a party to be heard; and
- the possible prejudice to each party.

Regarding the landlord's late evidence, as counsel indicate a new security system was installed in the rental building in late June 2022 and that counsel was ill the first week of July 2022, although I originally excluded all late evidence pursuant to RTB Rule 10.2, I will allow the late evidence the tenant confirmed receiving and reviewing dated July 9, 2022 and July 10, 2022 pursuant to RTB Rule 10.6 given what I find to be a sufficient explanation by counsel as to why the late evidence was not submitted earlier.

Both parties confirmed their respective email addresses. As a result, this decision will be emailed to both parties.

**Issues to be Decided**

- Is the landlord entitled to end the tenancy early and obtain an order of possession pursuant to section 56 of the Act for urgent health and safety reasons?
- If yes, is the landlord entitled to the recovery of the cost of the filing fee under the Act?

### Background and Evidence

The landlord alleges the following in their application:

Tenant uses rental unit to sell and traffic illegal drugs. Tenant's visitors have been witnessed purchasing drugs from the unit, fighting & screaming in the hallways, stairwell and common areas and urinating on the rental property. Tenant and her guests damage exit lights, signs and doors so that they will not close posing a security risk to the building.

[reproduced as written]

The co-owner confirmed that the building was purchased in February of last year. Counsel indicates that the rental building has a total of 50 units and that currently there is only 13 tenants in the rental building from what the co-owner states is problems mainly caused due steady and ongoing drug trafficking coming from the rental unit, with between 100-150 people attending the unit daily. The co-owner testified that there have been many overdoses and at least 3 deaths due to the drug activity from the unit. The co-owner stated they have personally witnessed the extreme number of what they called "wiggled out drug users" who stay an average of 3-7 minutes per visit. I will refer to these individuals as "guests" for the remainder of this Decision.

The co-owner indicates that the guests have broken access doors at least 15 times and that it is many different guests responsible for damaging property, including guest NP (guest A). According to the co-owner, guest A is seen damaging the video camera installed directly from the rental unit in the door facing the rental unit. Photo evidence supports that guest A was directly in front of the security camera and looking at the security camera. Other photo evidence supports what the co-owner described as lineups of guests waiting to buy drugs from the tenant. The co-owner also described fights between guests and that the tenant threatened JM, who dropped off evidence to the tenant.

The tenant admitted that they knew guest A but denies any drug activity whatsoever. The tenant also denied having the number of guests at the rental unit. The co-owner stated that the tenant has arranged other people to allow entry into the building and to bring them up to the unit. The tenant did not deny that they placed red tape in front of the rental unit, and photo evidence states that the red tape includes a sign taped beside the rental unit door with duct tape, which reads "Don't cross the red line" in the photo. There are several photos which support that there has been a line up of people at the rental unit, which the tenant denied.

The co-owner stated that the local MLA has advised them that this rental unit is well-known to the police for drug activity and is causing major concerns in the community. Counsel confirmed that while there has been no formal police charges yet against the tenant known at the time of the hearing, that the police are aware and investigating.

The co-owner presented a photo of the toilet area of the rental unit which was disgusting and had mold and feces on and around the toilet area. The tenant claims their shower has not worked for 3 years and when the tenant was asked when they last wrote to the landlord about their toilet, the tenant could not recall when they wrote to the landlord. The co-owner replied that the tenant has not written to the landlord about their toilet and that the photo was taken on July 6, 2022, just before the hearing.

The co-owner claims there are thousands of photos which support the extreme number of guests to this specific unit before me. The tenant was asked why there are so many guests and the tenant denied they have so many guests are that there is ever a lineup. As the photo evidence contradicts the tenant's testimony, the parties were advised during the hearing that I am not persuaded by the tenant's testimony as it is contradictory to the documentary evidence. The tenant spoke of people throwing rocks at their windows, which the tenant was advised was not relevant to this hearing.

### Analysis

Based on the documentary evidence, and the testimony provided during the hearing, and on a balance of probabilities, I am satisfied that the tenant has put the landlord's property at significant risk and engaged in illegal activity, drug trafficking, that 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.

Section 56 of the Act applies and states:

### **Application for order ending tenancy early**

**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 the 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.

(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.

[emphasis added]

I am also satisfied that it would be unreasonable and unfair to the landlord and other tenants in the rental building to wait for a notice to end tenancy under section 47 of the Act. I find the actions of the tenant to be unreasonable as I find the tenant simply denied having 100-150 guests per day which remains for 3-7 minutes per guest. I find that I prefer the evidence of the landlords, co-owner and submissions of counsel over that of the tenant as I find the tenant provided contradictory evidence. I find the photo evidence clearly supports that there have been lineups in front of the unit and that the only reason

that red tape would be placed along with a sign to remain behind the red tape would be for drug trafficking purposes given the other evidence before me.

Therefore, pursuant to section 56 of the Act, I grant the landlord an order of possession for the rental unit effective not later than **effective July 31, 2022 at 1:00 p.m.** I find the tenancy ended the date of this hearing, July 11, 2022 pursuant to section 62(3) of the Act. As the landlord's application is successful, I grant the landlord authorization to retain \$100.00 from the tenant's security deposit in full satisfaction of the recovery of the cost of the filing fee. This is pursuant to section 62(3) and 72 of the Act.

### Conclusion

The landlord's application is successful. The tenancy ended this date, July 11, 2022. The landlord is granted an order of possession effective July 31, 2022 at 1:00 p.m.

This decision will be emailed to both parties. The order of possession will be emailed to the landlord for service on the tenant. This order may be enforced through the Supreme Court of British Columbia. The tenant is reminded that they can be held liable for all costs related to enforcing the order of possession.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: July 11, 2022

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Residential Tenancy Branch