



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ET FFL

### Introduction

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

Landlords BK and KK (landlords) attended the teleconference hearing and 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. The hearing process was explained and an opportunity to ask questions was provided to the parties.

As the tenants did not attend the hearing, service of the Notice of a Dispute Resolution Hearing dated July 8, 2022 (Notice of Hearing), application and documentary evidence were considered. The landlords provided affirmed testimony that the Notice of Hearing, application and documentary evidence (Package) were served on the tenants by posting to the tenants' door on July 9, 2022 at 5:59 p.m., by JM. Documents posted to the door are deemed served 3 days after pursuant to section 90 of the Act. I find the tenants were duly served on the 3<sup>rd</sup> day after the Package was posted, July 12, 2022. As the tenants did not attend the hearing, I find this matter to be unopposed by the tenants. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Regarding the video evidence, the landlords indicated a link to the video provided was included in the documentary evidence and that the link was not secure so anybody with the link could open the video.

### Preliminary and Procedural Matter

The landlords confirmed their email address and the email address for tenant, TM. This Decision will be emailed to both parties.

### Issues to be Decided

- Are the landlords entitled to end the tenancy early and obtain an order of possession for health or safety reasons under section 56 of the Act?
- If yes, are the landlord entitled to the recovery of the cost of the filing fee?

### Background and Evidence

A copy of the tenancy agreement was submitted in evidence. The fixed-term tenancy began on January 1, 2022. The landlords testified that the tenants failed to pay any security deposit or pet damage deposit and have not paid rent in 4.5 months.

The landlords testified that on June 4, 2022, when doing an inspection of the rental property, when it came time to inspect a trailer on the property, JM was hiding in the trailer and came out as said they would “knock out” the landlord and that they were “going to kill him.” The landlords also stated that JM stated that they would follow the landlord home. The landlords stated they called the local RCMP and were given a police file indicated on the cover page of this Decision for ease of reference. The name of the investigation constable has also been included for ease of reference.

A video was reviewed which supports the testimony of the landlords and the threats made. The landlords confirmed they are concerned for their safety and are requesting an immediate end to the tenancy and the filing fee.

### Analysis

Based on the documentary and digital evidence and the testimony provided during the hearing, and on a balance of probabilities, I find and I am satisfied that the male tenant, JM has significantly interfered with or unreasonably disturbed the landlords.

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 landlords to wait for a notice to end tenancy under section 47 of the Act. I find the actions of the male tenant,

JM to be unreasonable and that there is no room in any tenancy for the tenant to threaten the landlord(s).

Therefore, pursuant to section 56 of the Act, I grant the landlords an order of possession for the rental unit effective not later than **two (2) days** after service on the tenants. I find the tenancy ended the date of this hearing, July 21, 2022 pursuant to section 62(3) of the Act.

As the landlord's application is successful, I grant the landlord **\$100.00** for the recovery of the cost the filing fee under section 72 of the Act. As the tenants failed to pay any deposits, I grant the landlords a monetary order of **\$100.00** pursuant to section 67 and 72 of the Act.

### Conclusion

The landlords' application is successful. The tenancy ended this date, July 21, 2022. The landlords are granted an order of possession effective two (2) days after service on the tenants. This decision will be emailed to both parties. The orders will be emailed to the landlords for service on the tenants.

The order of possession may be enforced through the Supreme Court of British Columbia. The monetary order may be enforced through the Provincial Court (Small Claims Division). I caution the tenants that they can be held liable for all costs related to enforcement of the order of possession and monetary order.

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 21, 2022

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Residential Tenancy Branch