



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ANSTEL HOLDINGS LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ET, FFL

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on July 18, 2022. The Landlord applied for an order of possession pursuant to section 56 of the Residential Tenancy Act (the Act) and to recover the filing fee pursuant to section 72 of the Act.

The corporate Landlord was represented at the hearing by IF, an agent. The Tenants attended the hearing on their own behalf. Both IF and the Tenants provided a solemn affirmation at the beginning of the hearing.

The Landlord testified the Notice of Dispute Resolution Proceeding package was served on the Tenants by attaching copies to the Tenants' door on July 26, 2022. The Tenants acknowledged receipt. No further issues were raised with respect to service or receipt of these documents. The parties were in attendance and were prepared to proceed. Therefore, pursuant to section 71 of the Act, I find these documents were sufficiently served for the purposes of the Act.

The Tenants did not submit documentary evidence in response to the Landlord's application.

The parties were advised that Rule of Procedure 6.11 prohibits the recording of dispute resolution hearings. Although the Tenants initially advised that they were recording the hearing, they agreed to discontinue recording.

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.

### Issues

1. Is the Landlord entitled to an order of possession?
2. Is the Landlord entitled to recover the filing fee?

### Background and Evidence

The parties agreed the tenancy began on May 1, 2016. The parties agreed that rent of \$649.00 per month is due on the first day of each month. The Tenants paid a security deposit of \$312.50, which the Landlord holds. A copy of the signed tenancy agreement was submitted into evidence.

On behalf of the Landlord, IF testified that on July 14, 2022, she received a call concerning the behaviour of GRH. IF testified that GRH became upset because a package was not at his door as expected. IF testified she received reports that GRH was seen to be yelling and banging walls. This behaviour continued to varying degrees for three days. During that period, police attended and dealt directly with GRH on at least one occasion.

In support, the Landlord submitted copies of letters from other residents expressing concern about GRH's behaviour. In a statement dated July 16, 2022, a resident (name redacted) states: "...I'm not going to have screaming at my wife while she's entering building and screaming that where all thives slamming doors and saying he doesn't care he is going to continue doing this everyday until he gets his stuff back...my wife stayed down stairs for 20 minutes because of the way he's acting and is a little paranoid to walk by his door."

In a statement dated July 16, 2022, a resident (name redacted) states: "The tenant in [the rental unit] is running up and down the hallways threatening to kill people every night."

In a type-written statement dated July 18, 2022, a resident (name redacted) states: “I [redacted] am writing in a complaint of [the Tenant’s] actions of aggressions of noise and action...Banging on walls and yelling top of his voice...Police were also involved about 3 Times...my nerves can’t take any more of this.”

An Incident Report prepared by the apartment manager was also submitted into evidence. In addition to the above, it notes that on July 16, 2022, GRH went to another rental unit and “tried to push his way in” and made “threatening gestures (I am going to get you)”.

In reply, GRH testified that IF was telling the truth. He acknowledged that he became upset that his package might have been stolen. However, GRH testified that he did not threaten anyone but announced that there appeared to be a thief in the building and that he merely wanted the person who took it to leave it in the laundry room.

GRH also testified that he has apologized and made amends with everyone in building. He acknowledged that it was the wrong thing to do and noted that he has lived in the building for seven years with no incidents. CMD also testified that they are quiet and always pay rent on time. IF did not disagree with these assertions.

### 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 landlords 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, by a very narrow margin on a balance of probabilities, I find that there is insufficient evidence before me to conclude that the Tenants pose an immediate and severe risk to the rental property, other residents, or the Landlord.

The Landlord's evidence was not supported by the testimony of residents who observed GRH's behaviour, and I have given little weight to the redacted statements submitted into evidence. I also find that the Landlord's evidence related to a single incident over three days, and that IF did not refer to any evidence of ongoing concerns.

I also find it would not be unreasonable or unfair for the Landlord to wait for a notice to end the tenancy under section 47 of the Act.

Considering the above, I find that the Landlord's request to end the tenancy is dismissed. The tenancy will continue until otherwise ended in accordance with the Act.

### Conclusion

The Landlord's request to the tenancy is dismissed. The tenancy will continue until otherwise ended in accordance with the Act.

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: August 12, 2022

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Residential Tenancy Branch