



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET

### Introduction

This hearing dealt with the landlord's application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act) for:

- an order of possession of the rental unit pursuant to section 56 of the Act because the tenants pose an immediate and severe risk to the rental property, other occupants, or the landlord.

The landlord and landlord's agent/daughter/translator (agent) attended the teleconference hearing; however, the tenants did not attend.

As the tenants did not attend the hearing, service of the Application for Dispute Resolution, evidence, and Notice of Hearing (application package) was considered.

The landlord submitted that the tenants were served the application package by attaching it to the tenants' door on July 21, 2022, within one day of receiving the documents from the Residential Tenancy Branch (RTB). The landlord testified that tenant SB removed the documents almost immediately that day.

I accept the landlord's undisputed evidence and find that the tenants were served notice of this hearing in a manner complying with section 89(2) of the Act. The hearing proceeded in the tenants' absences.

The landlord through their daughter/agent was provided the opportunity to present their affirmed testimony and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the RTB Rules. However, not all details of the submissions and or arguments are reproduced here; further, only the evidence specifically referenced and relevant to the issues and findings in this matter are described in this Decision. Words utilizing the singular shall also include the plural and vice versa where the context requires.

#### Preliminary and Procedural Matters-

The landlord listed on the application for dispute resolution was the name of the landlord's daughter. The landlord's name was not listed, and the agent submitted that they believed they were listed as the agent or representative.

I therefore find it necessary and appropriate to amend the landlord's application in order to include the name of the landlord. That change is reflected on the cover page of this Decision.

#### Issue(s) to be Decided

Is the landlord entitled to end this tenancy early without the requirement of a One Month Notice to End Tenancy?

#### Background and Evidence

The tenancy started on February 1, 2021. The rental unit is in the basement of a home owned and occupied by the landlord.

In support of their application, the landlord wrote:

At approximately 7:30 am on June 30, 2022 tenant approached upper deck back entrance banging and screaming at door. Landlord was awoken when opened door, tenant forced his way into the home, physically assaulted 80yr old landlord. Police called by landlord immediately, police arrived within 10 mins. Tenant continued to verbally assault/threaten then attempted to flee with wife in car. RCMP arrived immediately. tenant had to be physically restrained, resisted arrest handcuffed. Release soon.

[Reproduced as written]

The landlord testified that the tenant, DB, came into the landlord's home, after pounding on the door, and pushed and shoved the landlord backwards. The landlord is 82 years old.

The tenant then rushed out and called down to the other tenant below to get them out of there as the landlord would be calling the police. By the time the tenants were leaving 3-4 police cars were on-site. The landlord said that the tenant resisted arrest and the police fired several taser shots in the air, as a warning to the tenant. Ultimately, the police arrested the tenant and took him away.

The agent said in talking to one of the police officers who attended the scene later on, the tenant would be charged with assault. The agent said it was not possible to get written proof about the incident from the police, but was advised that their testimony as to what happened would be their proof.

### Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

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.

In order to establish grounds to end the tenancy early under section 56 of the Act, the landlord must not only establish that they have cause to end the tenancy, but that it would be unreasonable or unfair to require the landlords to wait for a notice to end the tenancy under section 47 of the Act to take effect. Having reviewed the undisputed testimony of the landlord, I find that the landlord has met that burden.

I find the landlord submitted sufficient and undisputed evidence that the tenant physically assaulted the landlord and that the assault was unprovoked.

I therefore find the landlord submitted sufficient evidence that the tenant seriously jeopardized the health or safety or a lawful right or interest of the landlord and engaged in illegal activity that has jeopardized a lawful right or interest of the landlord.

Due to the above, I am also satisfied that it would be unreasonable and unfair to the landlord to wait for a 1 Month Notice to End Tenancy to take effect.

I therefore grant the landlord's application to end this tenancy early.

Therefore, pursuant to section 56(1) of the Act, I **grant** the landlord an order of possession for the rental unit effective not later than **TWO (2) days** after service on the

tenants. I order the tenancy ended the date of this hearing, August 4, 2022, pursuant to sections 56 and 62(3) of the Act.

Conclusion

The landlord's application is successful.

I ordered the tenancy ended this date, August 4, 2022.

The landlord is granted an order of possession effective TWO (2) days after service on the tenants.

If it becomes necessary for the landlord to enforce the order of possession of the rental unit, **the tenants are cautioned that they may be liable for bailiff costs.**

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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: August 04, 2022

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Residential Tenancy Branch