



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      **ET, FFL**

### **Introduction**

The Landlord sought an early termination of the rental unit tenancy by Expedited Hearing pursuant to Sections 56 and 62 of the *Residential Tenancy Act* (the “Act”). The Landlord also sought recovery of the application filing fee pursuant to Section 72 of the Act.

The hearing was conducted via teleconference. The Landlord and Support/Translator attended the hearing at the appointed date and time and provided affirmed testimony. The Tenant did not attend the hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Landlord and I were the only ones who had called into this teleconference.

I advised the Landlord that Rule 6.11 of the Residential Tenancy Branch (the “RTB”) Rules of Procedure prohibits the recording of dispute resolution hearings. The Landlord and Support/Translator testified that they were not recording this dispute resolution hearing.

The Landlord testified that he served the Tenant with the Notice of Dispute Resolution Proceeding package on July 29, 2022 by Canada Post registered mail (the “NoDRP package”). The Landlord referred me to the Canada Post registered mail tracking number as proof of service. I noted the registered mail tracking number on the cover sheet of this decision. I find that the Tenant was deemed served with the NoDRP package five days after mailing them on August 3, 2022 in accordance with Sections 89(1)(c) and 90(a) of the Act.

### Issues to be Decided

1. Is the Landlord entitled to an Order ending the tenancy early?
2. Is the Landlord entitled to recovery of the application filing fee?

### Background and Evidence

I have reviewed all written and oral evidence and submissions before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The Landlord testified that this periodic tenancy began on March 15, 2021. Monthly rent is \$2,400.00 payable on the first day of each month. A security deposit of \$1,200.00 was collected at the start of the tenancy and is still held by the Landlord. The rental unit is the upper unit of a house, with tenants previously living in the basement suite.

The Landlord's Support testified that the dysfunction in this tenancy began around April or May this year. The police have been called on numerous occasions to deal with incidents started by the Tenant. The Landlord had police files for June 4, July 6 and July 21, 2022.

On June 3, 2022, the Tenant was in police custody and when he was released, he returned to the home on June 4, 2022 and began smashing everything in the house. The Tenant's girlfriend called the police, and the police attended the home. The police report noted that the Tenant had punched holes in the walls and into the stove. At 11:28 p.m. on June 4, 2022, fire rescue services needed to attend the home because the Tenant had lit his car on fire which was parked in the driveway.

On July 6, 2022, the police were called, and they did a walk through of the rental unit. The police report noted that the home was a mess and there were maggots in the fridge. The police report also noted a horrendous odour coming from the rental unit. The Tenant was arrested, and he later sent threatening text message and telephone calls to the Landlord. The Landlord's Support relayed the text and phone messages as, *"I own the house, if you are on the property, I'm going to kill you. I'm going to smash your head in. I got knives."*

The Landlord stated the Tenant's girlfriend was living there, but they are now separated. The girlfriend told the Landlord that she bought a replacement stove after the Tenant

destroyed the first one. The first stove remains on the property in the front of the house. The girlfriend sent pictures of damage inside the rental unit caused by the Tenant. The Landlord had previously repaired a beam in the home, but the Tenant has destroyed all the Landlord's repairs.

On July 21, 2022, the city police received multiple calls on account of the rental unit. The police attended the home and found holes in the main door of the garage. There was also significant damage inside the house, but the Tenant was not there. The police report stated, "*Police spoke with a friend of [initials], advised on how to have the Tenant evicted from the residence. File concluded.*"

One time the Tenant was arrested because he was carrying an axe around, and he was damaging property, and threatening the neighbours. The girlfriend was friendly with some of the neighbours, and someone posted on Facebook that police presence at the home occurred on numerous occasions. The Landlord noted that the floors in the home look like an axe was taken to them, they are destroyed.

The Landlord had tenants in his basement suite, but those tenants moved out of their rental unit on July 15, 2022 because they were scared of the Tenant. The Tenant has also threatened the Landlord's next door neighbours, and also smashed a window in their home. The Tenant's girlfriend had paid rent in July, but now has left and the Tenant did not pay rent in August. The Landlord now has no rental income from the property as the Tenant is not paying rent, and his downstairs tenants moved out. This will cause him significant financial hardship going forward if this Tenant is permitted to continue to reside in the rental unit.

The Landlord seeks an Order of Possession for this early end of tenancy claim, and it is needed because the Tenant is destroying the house. Previous tenants have left due to fear of the Tenant, and the Landlord does not go to the house because of threats from the Tenant.

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

This hearing was conducted pursuant to RTB Rules of Procedure 7.3, in the Tenant's absence, therefore, all the Landlord's testimony is undisputed. Rules of Procedure 7.3 states:

***Consequences of not attending the hearing:*** *If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.*

Section 56 of the Act establishes the grounds whereby a landlord may make an application for dispute resolution to request an early end to tenancy and an order of possession 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 for a landlord's notice for cause.

In order to end a tenancy early and issue an order of possession under Section 56, a landlord has the burden of proving under Section 56(2) that:

- (a) The tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord, seriously jeopardized the health, safety, or lawful right or interest of the landlord or another occupant, engaged in illegal activity, put the landlord's property at significant risk, or caused extraordinary damage to the residential property; and,
- (b) That it would be unreasonable or unfair to the landlord or other occupants to wait for a one month notice to end the tenancy for cause under Section 47 of the Act to take effect.

Based on the undisputed testimony of the Landlord, I find that the Tenant has significantly interfered with or unreasonably disturbed another occupant and the Landlord of the residential property. The Landlord has proven on a balance of probabilities that the Tenant has seriously jeopardized the health, safety, or lawful right or interest of the Landlord, has engaged in illegal activity that has put the Landlord's property at significant risk, and has caused extraordinary damage to the residential property. The situation continues and I find it would be unreasonable, or unfair to the Landlord of the residential property, to wait for a notice to end the tenancy under Section 47 [landlord's notice: cause] to take effect.

I find the Landlord has satisfied me that an order to end this tenancy early is warranted and is entitled to an Order of Possession, which will be effective two (2) days after service on the Tenant. In addition, having been successful, I find the Landlord is entitled to recover the application filing fee paid to start this application, which I order may be deducted from the security deposit held pursuant to Section 72(2)(b) of the Act.

### Conclusion

This tenancy ends on August 23, 2022.

The Landlord is granted an Order of Possession, which will be effective two (2) days after service on the Tenant. The Landlord must serve this Order on the Tenant as soon as possible. The Order of Possession may be filed in and enforced as an Order of the Supreme Court of British Columbia.

The Landlord is entitled to recover the \$100.00 application filing fee and it may be deducted from the security deposit still held by the Landlord.

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.

Dated: August 23, 2022

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Residential Tenancy Branch