



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      ET

### **Introduction**

The Landlord filed an Application for Dispute Resolution on January 11, 2023 seeking an order to end the tenancy on the basis that the Tenant poses an immediate and severe risk to the property, other occupants or the Landlord. The matter proceeded by way of a conference call hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on January 24, 2023. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

Both parties attended the scheduled teleconference hearing. The Tenant confirmed they received notice of this hearing from a family member who relayed that information to them, served by the Landlord by attaching it to the door of the rental unit. This included the Landlord’s prepared evidence.

### **Issue to be Decided**

Is the Landlord entitled to an order of possession that ends the tenancy for cause and without notice by s. 56 of the *Act*?

### **Background and Evidence**

The landlord confirmed details of the tenancy agreement; however, they did not submit a copy of the agreement for this hearing. The tenancy started on October 31, 2022.

The landlord applies for an end of tenancy based on the “immediate and severe risk to the rental property, other occupants or the landlord.” This is for an incident on January 10, 2023 in which the Tenant allegedly assaulted another resident in the building who lived immediately below them. This was accomplished by the Tenant creating a hole in their floor, then the ceiling for the other unit below them, and entering the unit below through that hole. This resulting in the resident below and the Tenant having a physical altercation, leaving the Tenant injured.

The Landlord noted police involvement for this incident. The Landlord described the resident living below the rental unit as scared of the Tenant. The Landlord filed this Application at the Residential Tenancy Branch the following day, seeking an immediate end to this tenancy. The Landlord provided three images showing the damage to the rental unit floor, as well as the below rental unit’s ceiling, left by a hole between the two units.

In the hearing, the Landlord presented that the Tenant had stated they would move out from the rental unit. At the time of this hearing, the Tenant remained in the hospital from this incident. The Tenant stated they were “leaving as soon as possible”, and apologized for the incident, to the Landlord and the other unit resident.

In the hearing, the Tenant described having a psychotic break that led them to cause damage and enter the rental unit below. They described their thoughts at the time as believing their family member was in peril, and required rescue. In the hearing, the Tenant made statements that indicated they were entirely the cause of this incident, not due to any intoxication or impairment; however, they experienced a “dream state” at that time. They could not remember all the details of the incident, having suffered blows to the head from the other resident’s defensive attacks against the Tenant.

### **Analysis**

The Act s. 56 provides that a tenancy may end earlier than a normal prescribed period if one or more of the outlined conditions applies. These conditions reflect dire or urgent circumstances. The legislation regarding an order of possession reads as follows:

- 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 tenancy were given under section 47 [*landlords’ notice: cause*], and
  - (b) granting the landlords an order of possession in respect of the rental unit.

Following this, s. 56(2) sets out two criteria. First, a landlord must prove the cause for issuing the Notice. Second, the evidence must show it would be unreasonable or unfair to a landlord to wait for a set-period Notice to End Tenancy to take effect under a different section of the *Act*. The determination of cause considers the following situations of immediate and severe risk:

56(2) . . .

- (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 landlords of the residential property;
  - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlords 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 landlords' 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 landlords;
  - (v) caused extraordinary damage to the residential property . . .

I have considered the evidence of the Landlord concerning the conduct of the Tenant and the incident in question.

I find there is sufficient evidence to show the Tenant was the cause of the incident in question; the Tenant frankly admitted to this in the hearing. This was serious damage to the rental property, and an altercation with the resident below, and the landlord provided direct testimony that they observed the party affected and spoke to the police. I find this is an action that is specified by section 56(2) above, particularly subsections (a) (i) and (ii). Moreover, I find the damage to the floor and ceiling constitutes "extraordinary damage to the residential property" as specified in subsection (v).

First, from the evidence I am satisfied that the facts of the situation prove cause. Secondly, I find it unfair for the Landlord to wait for a set-period Notice to End Tenancy to take effect. The Landlord stated the Tenant had stated their intention to move out from the rental unit; however, as a measure of surety to the Landlord I grant an Order of Possession

I find the situation merits an expedited end to the tenancy in that the Tenant as of the date of the hearing maintains occupancy of the rental unit. I so grant an Order of Possession in line with this rationale.

### Conclusion

For the reasons above, I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenant. Should the Tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: January 25, 2023

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Residential Tenancy Branch