



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

A matter regarding 1374201 BC LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      ET

### **Introduction**

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the *Act*") for an early end to this tenancy and an Order of Possession pursuant to section 56.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 1:40 p.m. in order to enable the tenants to call into this teleconference hearing scheduled for 1:30 p.m. The landlord's agent, CP ("landlord") attended the hearing, and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed that the landlord and I were the only ones who had called into this teleconference.

The landlord was clearly informed of the RTB Rules of Procedure Rule 6.11 which prohibits the parties from recording the dispute resolution hearing. The landlord confirmed that they understood.

The landlord testified that the tenants were served with their application and evidentiary materials by way of posting the package on the tenants' door on March 3, 2023. In accordance with sections 88, 89, and 90 of the *Act*, I find the tenants deemed served with this package on March 6, 2023, three days after posting. I note that the landlord submitted further evidence on March 15, 2023. As the landlord did not provide proof of service of these additional materials on the tenants, the additional evidence was excluded for the purposes of this hearing. The tenants did not submit any written evidence for this hearing.

### **Issues(s) to be Decided**

Is the landlord entitled to an early end of tenancy and an Order of Possession?

### **Background and Evidence**

While I have turned my mind to all the documentary evidence properly before me and the testimony provided in the hearing, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

The landlord provided the following submissions. This month-to-month tenancy began on January 24, 2023, with monthly rent currently set at \$1,800.00, payable on the first of the month. The landlord holds a security deposit of \$900.00.

The landlord filed this application after a search warrant for the property was executed on the property. The landlord provided a copy of the search warrant which states in part that “there are reasonable grounds to believe that the following controlled substance, or precursor; thing in which such a controlled substance or precursor is contained or concealed, offence-rated property, or thing will afford evidence of the Named Offence: (1) Fentanyl and cocaine...”. The landlord states that after the execution of the search warrant, the tenants were charged with trafficking in a controlled substance.

The landlord requested an Order of Possession as the tenants have engaged in illegal activity on the property, jeopardizing the health and safety of the landlord and others in the vicinity.

### **Analysis**

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an Order of Possession on a date that is earlier than the tenancy would end if a notice to end the tenancy were given under section 47 for a landlord’s notice for cause. In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that the tenant has done any of the following:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;*
- *seriously jeopardized the health or safety or a lawful right or interests of the landlord or another occupant.*
- *put the landlord’s property at significant risk;*

- *engaged in illegal activity that has caused or is likely to cause damage to the landlord's property;*
- *engaged in illegal activity that 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;*
- *engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;*
- *caused extraordinary damage to the residential property, **and***

*it would be unreasonable, or unfair to the landlord, the tenant 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.*

Based on the evidence and sworn testimony before me, I find that sufficient evidence has been provided to warrant an end to this tenancy for several of the reasons outlined in section 56, as outlined above. I find that the tenants have seriously jeopardized the health or safety or a lawful right or interests of the landlord, and as well as other residents and bystanders in the area. The landlord is seeking an Order of Possession as the landlord is concerned about the serious nature of the offences that involve the trafficking of a controlled substance, as indicated in the search warrant, and the significant and ongoing risk to anyone in the area because of this

The second test to be met in order for a landlord to obtain an early end to tenancy pursuant to section 56 of the *Act* requires that a landlord demonstrate that "it would be unreasonable, or unfair to the landlord, the tenant or other occupants of the residential property, to wait for a notice to end the tenancy under section 47" for cause to take effect. On this point, I find that the reasons cited by the landlord for circumventing the standard process for ending a tenancy for cause meet the test required to end this tenancy early as this matter pertains the immediate safety and lawful interests of the landlord and other residents in the area.

The serious nature of offences referenced in the hearing and landlord's application is quite worrisome. I note that the tenants have chosen to not appear at this hearing, nor have they provided any contrasting accounts by way of written evidence.

The main reason for the urgent nature of this application is the immediate risk to the safety and lawful interest of the landlord and residents in the area, and I find that the landlord has provided sufficient evidence to support this. The landlord submits that following the execution of the warrant, the tenants have been charged with associated

offences under the Controlled Drugs and Substances Act, including charges that relate to fentanyl and cocaine. I find that the landlord had established the potential volatility that the landlord and others may face if this tenancy continues, as well as the potential risk to everyone's safety.

Under these circumstances, I find that it would be unreasonable and unfair to the landlord for a 1 Month Notice to End Tenancy for Cause to take effect. For these reasons, I find that the landlord has provided sufficient evidence to warrant ending this tenancy early. I issue a two day Order of Possession to the landlord.

### **Conclusion**

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). Should the tenant(s) 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: March 21, 2023

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Residential Tenancy Branch