



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

A matter regarding PHS COMMUNITY SERVICES  
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.

BS and DN appeared for the landlord in this hearing. Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

Pursuant to Rule 6.11 of the RTB Rules of Procedure, the Residential Tenancy Branch's teleconference system automatically records audio for all dispute resolution hearings. In accordance with Rule 6.11, persons are still prohibited from recording dispute resolution hearings themselves; this includes any audio, photographic, video or digital recording. Both parties confirmed that they understood.

The tenant confirmed receipt of the landlord's application for dispute resolution ('Application') and evidence. In accordance with sections 88 and 89 of the *Act*, I find that the tenant duly served with the landlord's application and evidence. The tenant 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.

This month-to-month tenancy began on August 23, 2019, with monthly rent currently set at \$375.00, payable on the first of the month. The landlord holds a security deposit of \$187.00.

The landlord filed this application for an early termination of this tenancy after an incident that took place on March 11, 2023 inside the building, and which involved an alleged assault of another resident.

The landlord submitted video footage of the incident which took place in and around the elevator. The landlord alleged that the tenant caused the mobility challenged resident to be removed from of the wheelchair, and left them lying on the ground. The landlord submits that an assault took place where the tenant removed the other resident's pants to rob them of their belongings.

The landlord testified that they were alerted about the alleged assault by another individual in the building, and the tenant was observed to be kneeling on the other resident. The landlord testified that due to the vulnerable clients who reside in the multi-tenanted building, the landlord cannot tolerate any violence. The landlord requests an Order of Possession.

The tenant testified that the other resident had stolen items from their room after the tenant's boyfriend had passed away. The tenant testified that the other resident's pants naturally fall off when they stand up, and that their intention was not to hurt the other resident. The tenant testified that they just wanted their belongings back.

The tenant testified that the other resident entered their room, and that the wheelchair belonged to them, and not the other resident. The tenant argued that the other resident was not disabled, and was using the wheelchair to move the belongings around. The tenant denies assaulting or kneeling on the resident, stating "no way I could put my weight on him".

### **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 tenant has seriously jeopardized the health or safety or a lawful right or interests of another resident who lives in the same building. The landlord is seeking an Order of Possession as the landlord is concerned that the tenant's behavior was violent in nature, and poses a serious threat to other residents in the building, many of whom are vulnerable like the resident in this altercation.

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 well-being of others in the building.

I have reviewed the evidence and testimony provided for this hearing. Although the tenant provided an explanation of what happened, I find it clear that an incident did take place which involved the tenant and the other resident in the building. Although the

tenant argues that the other resident is not disabled, the other resident was removed from a wheelchair, and left lying on the ground during this incident. The landlord submitted video footage filmed from both inside and outside the elevator. Although the tenant claims that the other resident had taken their belongings, the video footage clearly shows the tenant approaching the other resident, and not the other way around. Although the other resident may not be wheelchair bound, the other resident did not get up for quite some time, and appeared to have mobility issues. I also note that the other resident was left lying halfway inside the elevator with the door closing on them repeatedly.

I did not observe the other resident provoking the tenant. Rather, I found that the tenant had approached the other resident, and proceeded to remove them from the wheelchair. The nature of this altercation is quite worrisome, especially considering the fact that even if the resident did steal the tenant's belongings, the tenant relied on a physical altercation than other means of a resolution.

I find that the landlord had provided sufficient evidence to support that the tenant was involved in a physical altercation that involved an attack on a vulnerable resident who resides in the same building.

The main reason for the urgent nature of this application is the immediate risk to the health, safety, and lawful right of the other residents and staff in the building, and I find that the landlord has provided sufficient evidence to support this potential risk. The landlord has a duty and obligation to ensure the safety of others in the building, many of whom are vulnerable or mobility challenged like the resident on this occasion. I find that the tenant has refused to acknowledge the seriousness of this matter, which highlights the potential volatility that the residents, visitors, and staff may face, and the potential for further violence if this tenancy was to continue.

Under these circumstances, I find that it would be unreasonable and unfair to the landlord to wait 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: May 03, 2023

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Residential Tenancy Branch