



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

**Dispute Codes**      **ET, FFL**

### **Introduction**

This is an application by the landlord to end the tenancy early by way of an expedited hearing and seeking;

- an order of possession for the subject residential property
- for reimbursement of the filing fee pursuant to section 72 of the Act

Landlord NW appeared with witness MP. Tenant SV appeared with witness JP. All parties were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses.

The hearing was conducted by conference call. The parties were reminded to not record the hearing pursuant to Rule of Procedure 6.11. The parties were affirmed.

The tenant stated she was not served with the landlord's evidence. The landlord testified that she did serve the tenant but did not provide proof of service in evidence. RTB Rules of Procedure Rule 3.1 states:

### **3.1 Documents that must be served with the Notice of Dispute Resolution Proceeding Package**

The applicant must, within three days of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the Notice of Dispute Resolution Proceeding provided to the applicant by the Residential Tenancy Branch, which includes the Application for Dispute Resolution;

- b) the Respondent Instructions for Dispute Resolution;
- c) the dispute resolution process fact sheet (RTB-114) or direct request process fact sheet (RTB-130) provided by the Residential Tenancy Branch; and
- d) any other evidence submitted to the Residential Tenancy Branch directly or through a Service BC Office with the Application for Dispute Resolution, in accordance with Rule 2.5 [*Documents that must be submitted with an Application for Dispute Resolution*].

The landlord did not provide proof of service in evidence. Therefore, I will only consider the landlord's oral evidence in this application.

#### Issue(s) to be Decided

1. Is the landlord entitled to an order ending the tenancy early?
2. Is the landlord entitled to recover the filing fee for this application?

#### Background and Evidence

The tenancy commenced on February 16, 2022 for a fixed term ending January 9, 2023 then month to month thereafter. Rent was \$850.00 per month and the landlord took a security deposit of \$425.00 and a pet deposit of \$425.00. The tenant still occupies the rental unit.

The landlord testified that the tenant assaulted the upstairs occupant of the rental property in December 2022. Witness MP testified that he was the upstairs tenant in the rental unit and the tenant assaulted him on December 2, 2022. MP stated that he was getting ready for work and heard loud music coming from the tenant's rental unit. He stomped on the floor, then the tenant came to his door and swung a golf club at his head. He stated that he was able to slam the door shut prior to the golf club hitting him in the head. He stated that the tenant swung the golf club at the door three times.

The tenant admitted to using a golf club to hit the other occupant's door several times, however denied trying to physically harm him.

### Analysis

Section 56 of the Act permits the Director to end a tenancy early, without the requirement of a notice to end tenancy being served on the tenant if the Director finds that the tenant seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant.

The undisputed evidence before me is that the tenant swung a golf club several times in the direction of another occupant of the rental property. Both parties agree that the door was hit with the golf club. The parties differ on whether the tenant intended to hit the other occupant. I find that the tenant's motive in swinging the golf is not relevant as I find the act of swinging the golf club in the direction of the other occupant seriously jeopardized the other occupant's health and safety. The tenant's behaviour was extreme, and the other occupant could have been hit regardless of the tenant's intent. I further find that given the tenant's extreme and violent reaction to the other occupant, that it would not be reasonable for the landlord to wait for a notice under section 47 of the Act to take effect.

I therefore find that the landlord has established a reason to end the tenancy early based on section 56 of the Act. As the landlord is successful in her application, I find that she is entitled to recover the \$100.00 filing fee for the application.

### Conclusion

The landlord is granted an order of possession which will be effective two days after it is served on the tenant. The order of possession must be served on the tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The landlord is also permitted to deduct \$100.00 from the tenants' security deposit in satisfaction of the filing fee.

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: June 05, 2023

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Residential Tenancy Branch