



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing

## DECISION

Dispute Codes      **ET, FFL**

### Introduction

This hearing dealt with the Landlords' application pursuant to the *Residential Tenancy Act* (Act) for:

1. An early end to the tenancy and an Order of Possession under Section 56 of the Act; and,
2. Recovery the application filing fee under Section 72 of the Act.

The hearing was conducted via teleconference. The Landlords 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 Landlords and I were the only ones who had called into this teleconference. The Landlords were given a full opportunity to be heard, to make submissions, and to call witnesses.

I advised the Landlords that Rule 6.11 of the Residential Tenancy Branch (RTB) Rules of Procedure prohibits the recording of dispute resolution hearings. The Landlords testified that they were not recording this dispute resolution hearing.

The Landlords served the Notice of Dispute Resolution Proceeding package and evidence for this hearing to the Tenant by attaching a copy on the Tenant's door on May 13, 2023 (NoDRP package). The other Landlord witnessed the first Landlord posting the NoDRP package on the door. I find that the Tenant was deemed served with the documents for this hearing three days after posting, on May 16, 2023, in accordance with Sections 89(2)(d) and 90(c) of the Act.

### Issues to be Decided

1. Are the Landlords entitled to an early end to the tenancy and an Order of Possession?
2. Are the Landlords entitled to recovery the application filing fee?

### Background and Evidence

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

The Landlords testified that this tenancy began as a fixed term tenancy on September 1, 2021. The fixed term ended on September 1, 2022, then the tenancy continued on a month-to-month basis. Monthly rent is \$1,600.00 payable on the first day of each month. The Tenant is responsible for 33% of the utilities. A security deposit of \$750.00 was collected at the start of the tenancy and is still held by the Landlord.

On April 24, 2023, the police knocked on the Landlords' front door asking for the Tenant. They directed the police to the side door which is the Tenant's front door. On April 25, 2023 one Landlord sent a text message to the Tenant about the police. The Tenant wrote back, *"I'm fine. A bad joke gone serious during a Zoom meeting. My dark humour doesn't go well with others at times. Sorry to worry you."*

On May 9, 2023, the RCMP broadcasted *"Police seek to identify suspect in groping incidents"*. The Tenant's picture was included in the broadcast. The neighbours of the Landlords brought this broadcast to their attention, and they told them that it was also being broadcasted on Global TV.

On May 10, 2023, the police came to the Landlords' home and arrested the Tenant. Later that evening, the police returned and asked the Landlords questions about the Tenant. They told the police that he pays his rent by e-transfer. The police told the Landlords that *'there is some incident in the area, but they cannot tell what's going on.'*

The Landlords have not seen the Tenant since May 10, and they have not heard anything about him. The Landlords said 'he's a suspect and he hasn't come back. If

he's not guilty, he'd be back.' On May 11, 2023, the RCMP broadcasted a thank you to the community, they managed to arrest the suspect.

The police searched the Tenant's rental unit on May 11, 2023. The Landlords said that the police did not show them anything, and they do not know if the police took anything from the Tenant's rental unit.

The Landlords did not report that the Tenant lived in their rental unit. They said we live in a good neighbourhood with lots of children. The Landlords testified that they knew the children in the local school were warned about their Tenant. The Landlords said they went to their local police station to ask questions. The police would not tell them anything and told them that they will have to deal with the RTB.

The Landlords feel there are safety issues, and risks to females and children in their home and their neighbourhood if the Tenant is allowed to stay in the rental unit. The Landlords have begun a dispute resolution for unpaid rent against the Tenant as the Landlords have not received rent and utilities for May and June 2023. The Landlords are putting their home on the market as they have bought another home. They require access to the rental unit and presently, they have no freedom of access to the rental unit.

### 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, in this application, is on the landlord to prove, on a balance of probabilities, the grounds on which this application for an early end to tenancy were based.

As this hearing was conducted pursuant to Rules of Procedure 7.3, in the Tenant's absence, all the Landlords' 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.***

In this matter, Section 56 of the Act is relevant:

***Application for order ending tenancy early***

- 56** (1) *A landlord may make an application for dispute resolution requesting*
- (a) *an order ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [landlord's notice: cause], and*
  - (b) *an order granting the landlord possession of the rental unit.*
- (2) *The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,*
- (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 landlord of the residential property;*
    - (ii) *seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;*
    - (iii) *put the landlord's property at significant risk;*
    - (iv) *engaged in illegal activity that*
      - (A) *has caused or is likely to cause damage to the landlord's 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 landlord;*
    - (v) *caused extraordinary damage to the residential property, and*
  - (b) *it would be unreasonable, or unfair to the landlord 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.*

- (3) *If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.*

The Landlords' undisputed testimony described an enigmatic situation with the Tenant who was living in their rental unit. RCMP broadcasts suggest a series of inappropriate touching incidents occurred involving the Tenant. The picture of the man the RCMP were looking for was the Landlords' Tenant. The RCMP came to the Landlords' home and arrested the Tenant. The RCMP now thank the community for its assistance, and that they have the suspect in custody. The RCMP will not share information with the Landlords which is understandable considering the gravity of the offences.

The Landlords testified that they have not seen the Tenant since the day the RCMP came to their home and arrested him. I find the Landlords' lawful right or interest in their property has been adversely affected and jeopardized based on the sequence of events to which the Landlords have testified. The Landlords have plans for their property, and I find their lives should not be put on an indefinite hold because of the actions of the Tenant.

Based on the totality of the undisputed evidence of the Landlords, I find the Tenant's illegal activities have jeopardized a lawful right or interest of the Landlords. I am satisfied that the Landlords have met their burden of proving on a balance of probabilities that the Tenant's tenancy must end early. Pursuant to Section 56(2)(b) of the Act, I find it would be unreasonable, and unfair to the Landlords of the residential property to have to wait for a notice to end the tenancy under Section 47 of the Act to take effect.

I find the Landlords have satisfied me that an order to end this tenancy early is warranted and they are entitled to an Order of Possession, which will be effective two (2) days after service on the Tenant.

For the benefit of the Landlords, they may wish to discuss with an Information Officer at the RTB the options available to them for serving the Order of Possession on the Tenant in this situation. An Information Officer can be reached at:

5021 Kingsway  
Burnaby, BC  
Phone: 604-660-1020 (Lower Mainland)  
250-387-1602 (Victoria)  
1-800-665-8779

Website: [www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies](http://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies)

In addition, having been successful, I find the Landlords are 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

The Landlords are granted an Order of Possession, which will be effective two (2) days after service on the Tenant. The Order of Possession may be filed in and enforced as an Order of the Supreme Court of British Columbia.

The Landlords may deduct the \$100.00 application filing fee from the security deposit due to the Tenant.

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: June 16, 2023

---

Residential Tenancy Branch