



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Vista Pacific Properties  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ET, FF

### Introduction

This hearing was convened to address a claim by the landlord for an order ending this tenancy early. Despite having been served with the application for dispute resolution and notice of hearing which were posted on the door of the rental unit on September 30, the tenant did not participate in the conference call hearing.

### Issue to be Decided

Should this tenancy be ended early?

### Background and Evidence

The landlord's undisputed evidence is as follows. The tenancy began on March 1, 2015 and the rental unit is on the second floor of a multi-storey apartment building which houses persons age 55 and over.

The landlord wishes to end the tenancy for the following reasons:

- The tenant has not paid rent for October and November;
- The tenant is a drug addict;
- The tenant's guests are under the age of 55 and often spend the night with her;
- The tenant and her guests have throughout the tenancy propped open the side door to the secured building and on one occasion, the tenant's guests removed the pins from the hinges of that door;
- The tenant's guests climb on the first floor balcony of the unit below in order to access her unit from her balcony;
- The tenant smokes in the rental unit despite her tenancy agreement prohibiting smoking;
- The tenant constantly slams doors and yells and whistles from her balcony;

- Shortly after the tenancy began, the tenant and her guest broke into the apartment next door and the tenant's guest was arrested for this crime; and
- The tenant has brought stolen bicycles to the building.

The landlord entered into evidence statements from the tenant's neighbours complaining that she is noisy, that her guests are under age 55 and that her guests have been seen on the balcony of the unit below the rental unit. The landlord testified that during the tenancy she has served the tenant with 3 notices to end tenancy for unpaid rent but did not serve her with a notice to end tenancy for cause until the end of August.

### Analysis

Section 56(2) of the Act provides as follows:

56(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,

56(2)(a)(ii) the tenant or a person permitted on the residential property by the tenant has done any of the following:

56(2)(a)(ii)(A) Significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;

56(2)(a)(ii)(B) seriously jeopardized the health or safety or a lawful right or interests of the landlord or another occupant.

56(2)(a)(ii)(C) put the landlord's property at significant risk;

56(2)(a)(ii)(D) engaged in illegal activity that has caused or is likely to cause damage to the landlord's property;

56(2)(a)(ii)(E) 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;

56(2)(a)(ii)(F) engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;

56(2)(a)(ii)(G) caused extraordinary damage to the residential property, and

56(2)(b) 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] or 57.41 [notice to end tenancy: tenant's needs] to take effect.

The causes for ending the tenancy early as listed above are identical to the causes for which a landlord can end a tenancy by serving a one month notice to end tenancy. The difference between this process and a determination on whether the landlord has the grounds to end the tenancy for cause is that when a landlord seeks to end the tenancy earlier than would occur had a one month notice to end tenancy been served, the landlord must also prove that it would be unreasonable or unfair to the landlord or other occupants to wait for the one month notice to end tenancy to take effect. In other words, the situation created by the tenant must be extreme and require immediate action.

Based on the evidence before me, I am satisfied that the landlord has grounds to end this tenancy for cause, but I am not satisfied that the situation is so urgent that it should end earlier than a notice to end tenancy for cause would take effect.

The issue of unpaid rent or guests under the age of 55 are not issues I can consider under section 56. The fact that the tenant is a drug user or has brought stolen property into the building may be disturbing to the landlord, but she has not demonstrated how this has negatively impacted her or the other occupants.

Most of the actions described by the landlord such as creating noise, propping the door open and allowing her guests to access the unit by climbing on other tenants' balconies have been ongoing throughout the tenancy. The landlord has chosen to tolerate this behaviour for many months, which leads me to believe it does not create an urgent situation which requires an extreme measure such as an early end to tenancy.

While the tenant and her guest having broken into a neighbouring apartment would ordinarily be a situation I would consider extreme and create an urgency, this occurred many months prior to the time the landlord filed her application for dispute resolution and again, because the landlord chose not to act on the situation when it occurred, it leads me to believe there is no urgency involved.

I am unable to find that it would be unreasonable or unfair to the landlord to wait for a one month notice to end tenancy to take effect and I therefore dismiss the application as the landlord has not met the extremely high burden placed upon her. The landlord is free to serve the tenant with a one month notice to end tenancy for cause.

I note that in August, the landlord served the tenant with a one month notice to end tenancy for cause. The landlord submitted a copy of this notice, which is a form which

has not been used by the Residential Tenancy Branch for more than 9 years. If the landlord wishes to end the tenancy, she should use a current form.

Conclusion

The claim is dismissed.

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: November 04, 2015

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Residential Tenancy Branch

