



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ET, FFL

### Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) that was filed by the Landlords under the *Residential Tenancy Act* (the “Act”), seeking:

- An early end to the tenancy pursuant to section 56 of the *Act*; and
- Recovery of the filing fee.

The hearing was convened by telephone conference call and was attended by the Landlords, who provided affirmed testimony. Neither the Tenant nor an agent acting on their behalf attended. The Landlords were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”) state that the respondent must be served with a copy of the Application and Notice of Hearing. As neither the Tenant nor an agent acting on their behalf attended the hearing, I confirmed service of these documents as explained below.

The Landlords testified that the Notice of Dispute Resolution Proceeding Package, including a copy of the Application, the Notice of Hearing, and the documentary evidence before me was sent to the Tenant by registered mail at the rental unit address on July 20, 2020. The Landlords provided me with the registered mail tracking number, which is documented on the cover page of this decision, and a copy of the registered mail tag. The Canada Post website confirms that the registered mail was sent as described above and delivered on July 23, 2020. The Landlord R.H. stated that they attended the rental unit on July 29, 2020, and confirmed that the registered mail was not in the mailbox. As a result of the above, I find that the Tenant was served the Notice of Dispute Resolution Proceeding Package, including a copy of the Application, the Notice

of Hearing, and the documentary evidence before me, in accordance with the *Act* and the Rules of Procedure on July 23, 2020.

Based on the above and pursuant to rule 7.3 of the Rules of Procedure, the hearing proceeded as scheduled, despite the absence of the Tenant. I also accepted the Landlord's documentary evidence for consideration. I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Rules of Procedure; however, I refer only to the relevant facts, evidence and issues in this decision.

At the request of the Landlords, copies of the decision and any orders issued in their favor will be emailed to them at the email addresses provided in the Application.

#### Issue(s) to be Decided

Are the Landlords entitled to an Order of Possession pursuant to section 56 of the *Act*?

Are the Landlords entitled to recovery of the filing fee pursuant to section 72 of the *Act*?

#### Background and Evidence

The one year fixed-term tenancy agreement in the documentary evidence before me states that the tenancy commenced on July 1, 2019, and that it became month to month after the end of the fixed term on June 30, 2020. The tenancy agreement states that rent in the amount of \$1,300.00 is due on the first day of each month, and that a \$650.00 security deposit was paid, which the Landlords still hold.

The Landlords stated that an occupant permitted to reside in the rental unit by the Tenant has been engaged in illegal activity and that they, as owners of the property, have subsequently received a letter from the RCMP stating that the property is being used as an instrument of illegal activity and advising them to seek immediate action through the Residential Tenancy Branch (the "Branch") to avoid restraint and forfeiture of their property. A copy of this letter was provided for my review and consideration. In addition to the criminal activity listed in the letter, which includes such activity as mischief, possession of stolen property, theft, flight from police, missing persons, possession of controlled substances and motor vehicle violations, among other things, the Landlords stated that the Tenant and/or their occupant have threatened the upstairs tenants, who reside in a separate unit of the property under a separate tenancy

agreement and that since the letter from the RCMP was received mid June, 2020, the police have attended the rental unit approximately 10 more times.

Based on the above, the Landlords argued that the Tenant or a person permitted on the residential property by the Tenant, has 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 interest of the landlord or another occupant; put the landlord's property at significant risk; and/or engaged in illegal activity that has caused or is likely to cause damage to the landlord's property, 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 has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord.

As a result, the Landlords sought an Order of Possession for the rental unit effective two days after service and authorization to withhold \$100.00 from the security deposit for recovery of the filing fee.

No one attended on behalf of the Tenant to provide any evidence or testimony for my consideration, despite being duly served a copy of the Application, the Notice of Hearing, and the documentary evidence before me from the Landlords.

### Analysis

Based on the documentary evidence and affirmed testimony before me, and in the absence of any evidence to the contrary, I accept as fact that a tenancy under the *Act* exists between the Tenant and the Landlords and that the Tenant or person permitted on the property by the Tenant, or both, have significantly interfered with or unreasonably disturbed another occupant or the Landlords of the residential property; seriously jeopardized the health or safety or a lawful right or interest of the Landlords or another occupant; put the Landlords' property at significant risk; and/or engaged in illegal activity that has caused or is likely to cause damage to the Landlords' property, 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, and has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the Landlords. I am also satisfied, given the nature and severity of the reasons for which the Landlords have sought an end to the tenancy, that it would also be unreasonable or unfair to the Landlords or other occupants of the residential property, or both, to wait for a One Month Notice under section 47 to be served and to take effect.

Based on the above, I am satisfied that the Landlords have cause to end the tenancy early pursuant to section 56 of the *Act* and I therefore grant them an Order of Possession for the rental unit effective **two (2) days after service** on the Tenant.

Pursuant to section 72 of the *Act*, the Landlords are also authorized to withhold \$100.00 from the security deposit for recovery of the filing fee.

### Conclusion

Pursuant to section 56 of the *Act*, I grant the Landlords an Order of Possession for the rental unit effective **two (2) days after service** on the Tenant. The Landlords are provided with this Order in the above terms and the Tenant must be served with this Order as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

Pursuant to section 72 of the *Act*, the Landlords are also authorized to withhold \$100.00 from the security deposit for recovery 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: August 17, 2020

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Residential Tenancy Branch