



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Atira Property Management Inc 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 termination of tenancy and Order of Possession, pursuant to section 56.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:40 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. The landlord's agent (the "agent") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. 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 agent and I were the only ones who had called into this teleconference.

The agent testified that the tenant was served with this application for dispute resolution via registered mail on February 8, 2021. A receipt for same was entered into evidence. I find that the tenant was deemed served on February 13, 2021, five days after it was mailed, in accordance with sections 89 and 90 of the *Act*.

### Issues to be Decided

Is the landlord entitled to an early termination of tenancy and Order of Possession, pursuant to section 56 of the *Act*?

### Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of the agent, not all details of the agent's submissions and arguments are reproduced here. The relevant and important aspects of the agent's claims and my findings are set out below.

The agent provided the following undisputed testimony. This tenancy began on January 1, 2014 and is currently ongoing. Monthly rent in the amount of \$375.00 is payable on the first day of each month. A security deposit of \$187.50 was paid by the tenant to the landlord. A written tenancy agreement was signed by both parties and a copy was submitted for this application.

The agent testified that the landlord is seeking an emergency Order of Possession due to a continued pattern of the tenant stealing items from the landlord and other tenants including a home invasion.

The agent testified that in 2018 the tenant was caught on video stealing a fan owned by the landlord that was put in the hallway to benefit all tenants. The agent entered into evidence a breach letter that was sent to the tenant, dated May 20, 2018 regarding the theft of the fan.

The agent testified that in August of 2020 the tenant was caught on camera stealing a leather couch that was in a common area. The agent entered into evidence a breach letter that was sent to the tenant, dated August 2, 2020 regarding the couch.

The agent testified that on January 12, 2021 the tenant was caught on camera entering into an apartment of a neighboring tenant carrying empty backpacks at 11:18 p.m. and leaving at 11:40 p.m. with full backpacks. The agent testified that the neighboring tenant reported that all items of value were stolen from his unit while he slept. The agent testified that the police were involved and that because the theft occurred while the neighbouring tenant was at home asleep, the theft is considered a home invasion. The agent entered into evidence security images of the tenant leaving the neighbouring apartment with full bags.

The agent testified that on January 21, 2021 the tenant was found in possession of staff storage keys.

## Analysis

I accept the agent's undisputed testimony regarding the actions of the tenant provided at this hearing.

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 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.*

An early end of tenancy is an expedited and unusual remedy under the *Act* and is only available to the landlord when the circumstances of the tenancy are such that it is unreasonable for a landlord to wait for the effective date of a notice to end tenancy to take effect, such as a notice given under Section 47 of the *Act* for cause. At the dispute resolution hearing, the landlord must provide convincing evidence that justifies not giving full notice.

I find that the tenant's actions show a progressively serious disregard for the safety and belongings of other people. I find that the tenant's thefts significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,

contrary to section 56(2)(a)(i) of the *Act*. Given the serious nature of the tenant's actions, invading another person's home and stealing their belongings while they slept, I find that it would be unreasonable and unfair to the landlord and other tenants of the subject rental building to wait for a notice to end the tenancy under section 47 [landlord's notice: cause] to take effect as further offences could occur in that time.

Pursuant to section 56 of the *Act*, I award the landlord a two-day Order of Possession.

### Conclusion

Pursuant to section 56 of the *Act*, I grant an Order of Possession to the landlord effective **two days after service on the tenant**. Should the tenant 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: February 25, 2021

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Residential Tenancy Branch