



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

ET and FFL

### **Introduction**

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied to end the tenancy early, for an Order of Possession, and to recover the fee for filing this Application for Dispute Resolution.

The Landlord stated that on January 29, 2021 the Dispute Resolution Package and the evidence the Landlord submitted to the Residential Tenancy Branch on January 26, 2021 were posted on the door of the rental unit. The Agent for the Landlord stated that he observed the posting of these documents.

In the absence of evidence to the contrary, I find that the aforementioned documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing. As the documents were properly served to the Tenant, the hearing proceeded in his absence of the evidence was accepted as evidence for these proceedings.

Each participant affirmed that they would provide the truth, the whole truth, and nothing but the truth at these proceedings.

### **Issue(s) to be Decided**

Is the Landlord entitled to end this tenancy early, to an Order of Possession on the basis that the tenancy is ending early, pursuant to section 56(1) of the *Act*, and to recover the filing fee pursuant to section 72(1) of the *Act*?

## Background and Evidence

The Landlord stated that:

- The tenancy began on May 01, 2020;
- The Tenant has not been seen since January 23, 2020;
- The Tenant has left some property in the rental unit;
- The Tenant has not given notice to end the tenancy;
- Five other occupants of the residential complex informed the Landlord that there were noises emanating from the rental unit between January 21, 2021 and January 24, 2021;
- The occupants reported noises of enraged screaming, yelling, and sounds of destruction; and
- The noises were heard periodically during the day and the night during that 4 day period.

The Agent for the Landlord stated that:

- He and the Landlord were at the residential complex between 5:30 p.m. and 9:00 p.m. on January 22, 2020;
- During that period on January 22, 2021 he and the Landlord heard sounds of items being destroyed within the rental unit;
- The police attended on January 22, 2021 but were unable to gain access to the rental unit;
- The police left on January 22, 2021 after receiving the Tenant's assurances (through the window) that he would calm down;
- The police returned on January 24, 2021 and arrested the Tenant; and
- After the police arrested the Tenant, he took the photographs of the interior of the rental unit which were submitted in evidence.

## Analysis

Section 56(1) of the *Act* stipulates that a landlord may apply for an order that ends the tenancy on a date that is earlier than the tenancy would end if a notice to end tenancy were given under section 47 of the *Act* and that the Landlord may apply for an Order of Possession for the rental unit. Section 56(2)(a) of the *Act* authorizes me to end the tenancy early and to grant an Order of Possession in any of the following circumstances:

- 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

- The tenant or a person permitted on the residential property by the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant
- The tenant or a person permitted on the residential property by the tenant has put the landlord's property at significant risk
- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property
- The tenant or a person permitted on the residential property by the tenant has 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
- The tenant or a person permitted on the residential property by the tenant has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord
- The tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to the residential property.

On the basis of the undisputed evidence, I find that the Landlord has grounds to end this tenancy because the Tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to the rental unit. I find that the photographs submitted in evidence show damage to appliances and the unit that far exceed anything that can be considered reasonable or acceptable.

Section 56(2)(b) if the *Act* authorizes me to grant an Order of Possession in these circumstances only if 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 to take effect.

Given the nature and the extent of the damage to the rental unit depicted in the photographs, I find it would be unreasonable for the Landlord to wait for a notice to end the tenancy under section 47 to take effect. I therefore grant the Landlord's application to end the tenancy early and I grant him an Order of Possession.

I find that the Landlord's Application for Dispute Resolution has merit and that he is entitled to recover the fee for filing this Application for Dispute Resolution.

Conclusion

Based on these findings I grant the Landlord an Order of Possession that is effective immediately. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the Landlord has established a monetary claim, in the amount of \$100.00, in compensation for fee paid to file this Application for Dispute Resolution and I grant the Landlord a monetary Order in that amount. In the event the Tenant does not voluntarily comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced by that Court.

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: February 11, 2021

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Residential Tenancy Branch