



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BROWN BROS. AGENCIES LTD.  
and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes     ET, FFL

### Introduction

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

- an early end to tenancy and an Order of Possession, pursuant to section 56; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 31 minutes. The landlord's two agents, landlord CS ("landlord's agent") and "landlord JL," attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Two witnesses, "witness RB" and "witness AC," testified on behalf of the landlord at this hearing. They were excluded from the outset of the hearing and called back in later to provide affirmed testimony.

The hearing began at 9:30 a.m. and ended at 10:01 a.m. I monitored the teleconference line throughout this 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 landlord's two agents, the landlord's two witnesses, and I were the only people who called into this teleconference.

All participants confirmed their names and spelling. The landlord's agent stated that she was the agent for the landlord company named in this application. She said that landlord JL was her assistant. Landlord JL did not testify at this hearing. The landlord's agent confirmed the rental unit address during this hearing. She provided an email address for me to send a copy of this decision to the landlord after the hearing.

At the outset of this hearing, I informed the landlord's agent that recording of this hearing was not permitted by anyone, as per Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* ("*Rules*"). The landlord's agent affirmed, under oath, that neither she, nor landlord JL, would record this hearing.

I explained the hearing process to the landlord's two agents. I informed them that I could not provide legal advice to them. They had an opportunity to ask questions, which I answered. They did not make any adjournment or accommodation requests.

This matter was filed as an expedited hearing under Rule 10 of the RTB *Rules*. The landlord filed this application on December 15, 2021, and a notice of hearing was issued by the RTB on January 6, 2022. The landlord was required to serve that notice, the application, and all other required evidence to the tenant, within one day of receiving the documents from the RTB, as per RTB *Rules* 10.2 and 10.3.

The landlord's agent stated that the tenant was served with the landlord's application for dispute resolution hearing package on January 6, 2022, by way of posting to the tenant's rental unit door. She said that she saw witness AC post the landlord's application to the tenant's door. The landlord provided a signed, witnessed proof of service for same. In accordance with RTB *Rules* 10.2 and 10.3 and sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's application on January 9, 2022, three days after its posting.

#### Issues to be Decided

Is the landlord entitled to an early end to tenancy and an Order of Possession?

Is the landlord entitled to recover the filing fee for this application from the tenant?

#### Background and Evidence

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

The landlord's agent stated the following facts. This tenancy began on December 1, 2020. Monthly rent in the amount of \$1,050.00 is payable on the first day of each month. A security deposit of \$525.00 was paid by the tenant and the landlord continues to retain this deposit. A written tenancy agreement was signed by both parties. The tenant continues to reside in the rental unit. The rental unit is an apartment in a multi-unit residential building.

The landlord's agent testified regarding the following facts. The tenant has displayed behavior that is unpredictable, starting in September 2021, and escalating since then. The landlord initially issued warning letters to the tenant and reached out to his outreach program. The tenant has been disturbing other occupants in the rental building. The tenant stopped communicating with his workers in the outreach program. The tenant's rental unit is "trashed," the landlord told him to clean it up, but the landlord has not received a response from the tenant. On December 10, 2021, the tenant was cooking inside his rental unit, he did not clean up his unit as instructed by the landlord, and the entire stove caught on fire. The fire department put out the fire, it happened late at night, the fire alarm went off, and the whole building was evacuated. The landlord talked to the tenant the next day and provided him with a warning letter. The tenant caused another fire on December 13, 2021, and the fire department attended again. The tenant has been threatening occupants across the hall and downstairs, as well as yelling through their doors. Other occupants are upset regarding the tenant's behaviour and the tenant needs to move out. The landlord cannot wait for a One Month Notice to End Tenancy for Cause ("1 Month Notice") to take effect and wants the tenant out immediately. That is why an expedited hearing was filed in this matter.

Witness RB testified regarding the following facts. He is a building manager that does not reside in the rental building. He has received all incident reports from other occupants. On December 11, 2021, the police, fire, and ambulance attended at the rental building because the tenant started a fire in his rental unit. The occupant residing on the first floor of the rental building was outside in the rain, shaken up by this event, and was threatened by the tenant. On December 14, 2021, the tenant started another fire at the rental unit. The rental building is full of elderly people and retired doctors, who are afraid of the tenant. Other occupants have written statements about the tenant's behavior. The tenant climbed onto the balcony of the occupant residing on the second floor of the rental building. The tenant has medical problems and illicit drug use. Other occupants in the rental building are terrified of the tenant. The tenant's behavior is "unacceptable conduct." The tenant has "underlying problems" for why he is acting this way. The tenant has not paid rent since December 1, 2021.

Witness AC testified regarding the following facts. He is a building manager who resides in the rental building with his wife, mother-in-law, and children, who are all disturbed by the tenant's behavior and feel unsafe at the rental property. There were two incidents at the rental property involving the tenant. On December 12, 2021, the tenant caused a fire at the rental unit, and it was attended by the fire department and the police. The tenant was cooking massive amounts of food, another occupant pulled the fire alarm, and the whole building was evacuated. The Fire Chief told witness AC that the tenant's behaviour was not safe for the rental building. Other occupants said that if the tenant's behavior continues, which has been ongoing for a long time, they cannot stay at the rental building. The police took the tenant for a psychological assessment. On December 14, 2021, the tenant burned food again, caused another fire, and the fire and police departments attended again. The tenant told another occupant that he was trying to burn down the building.

Witness AC stated the following facts. The occupant residing on the first floor of the rental building said that the tenant was trying to target him and has been causing trouble. The tenant is focused on the occupant across the hall from him, the tenant is paranoid, and the tenant's behavior has escalated. The tenant crawled onto the balcony of the occupant living beside him and tried to get into her apartment to "cuddle" with her. The tenant said that he is waiting for a "man" to tell him to move out, so he is aware that he has to leave the rental unit. Witness AC has been inside the tenant's rental unit, which is shown in photographs provided by the landlord for this hearing. There is lots of work that must be done in the unit now. Witness AC worked on the rental unit personally before the tenant moved in, to ensure that the state was "perfect." Now the rental unit is in "bad" condition. Other occupants have complained about having trouble sleeping because of the tenant's behavior.

### Analysis

Section 56 of the *Act* requires the landlord to show, on a balance of probabilities, that the tenancy must end earlier than the thirty days indicated on a 1 Month Notice, due to the reasons identified in section 56(2) of the *Act* **AND** that it would be unreasonable or unfair for the landlord or other occupants to wait for a 1 Month Notice to take effect, as per section 56(2)(b).

To satisfy section 56(2)(a) of the *Act*, the landlord must show, on a balance of probabilities, that:

*(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...*

On a balance of probabilities and for the reasons stated below, I find that the tenant seriously jeopardized the health, safety, and lawful rights and interests of the landlord and other occupants at the residential property.

I accept the undisputed, affirmed testimony of the landlord's agent and the landlord's two witnesses at this hearing. Witness AC saw the condition of the rental unit and provided photographs of same. The photographs show the condition of the rental unit after the fire caused by the tenant. It shows burnt pots and pans all over the tenant's stove, with burnt debris and clutter all over the kitchen at the rental unit. I find that the condition of the rental unit causes serious health and safety risks for all occupants at the residential property and jeopardizes the lawful rights and interests of the landlord.

The landlord provided a copy of a warning letter issued to the tenant by the landlord's agent on December 9, 2021. The letter reproduces a clause of the tenancy agreement, warns about complaints regarding the tenant's behaviour of "excessive," "loud," "yelling" and "banging," and the disturbance of other occupants at 5:30 a.m. on December 5, 2021. The letter cautions that a 1 Month Notice could be issued to the tenant if further complaints are received from other occupants.

The landlord provided copies of five incident reports from other occupants at the rental building, witness RB, and witness AC, dated between December 12 and 14, 2021. The reports discuss the two fires that the tenant caused at the rental unit, the fire department and police attending both incidents, the tenant threatening other occupants, occupants feeling unsafe and disturbed by the tenant's behaviour, and the tenant having visible weapons that other occupants and witness AC have seen, including a knife, pellet gun, machete, and pepper spray, at his rental unit. I find that the above behaviour of the tenant at the rental building causes serious health and safety risks for all occupants at the residential property and jeopardizes the lawful rights and interests of the landlord.

I also find that the landlord's application meets the second part of the test under section 56(2)(b) of the *Act*. I find that the landlord provided sufficient evidence that it would be "unreasonable" or "unfair" to wait for a 1 Month Notice to take effect.

I find that the landlord provided sufficient evidence regarding the urgency and seriousness of this situation. I accept the undisputed evidence of the landlord and the undisputed, affirmed testimony of the landlord's agent, witness RB, and witness AC at this hearing. I find that the tenant's behaviour has escalated since September 2021 and he has caused two fires at the rental unit, that has required the attendance of fire and police on both occasions. I find that the landlord has been warned by the fire department that the tenant's behaviour causes a safety risk to other occupants at the rental property. I find that the tenant's rental unit has been left in an unsafe and dangerous condition, particularly since the fires.

I find that the tenant has not responded to or disputed the landlord's warnings, letters, incident reports, or this application, filed by the landlord on December 15, 2021. I find that the tenant has not moved out and he has not corrected the issues, since the police or fire department visits. I find that the landlord has already waited over one month from filing this application on December 15, 2021, to this hearing date of January 28, 2022, to obtain a resolution of this matter. The above RTB hearing wait times are outside the control of the landlord.

Accordingly, the landlord's application for an early end to tenancy is granted. The landlord is granted an order of possession effective two (2) days after service on the tenant.

As the landlord was successful in this application, I find that it is entitled to recover the \$100.00 filing fee from the tenant.

Conclusion

The landlord's application is granted.

I grant an Order of Possession to the landlord effective two (2) days after service on the tenant. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I order the landlord to retain \$100.00 from the tenant's security deposit of \$525.00, in full satisfaction of the monetary award for the filing fee. The remainder of the tenant's security deposit of \$425.00 will be dealt with at the end of this tenancy in accordance with section 38 of the *Act*.

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: January 28, 2022

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Residential Tenancy Branch