



# 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 the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for an order to end the tenancy early and receive an order of possession for health or safety reasons pursuant to section 56 of the Act and to recovery the cost of the filing fee.

An agent for the landlord, SB (agent), a witness for the landlord, AS (witness), the tenant and a support person for the tenant, DB (support) attended the hearing and gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

As the tenant confirmed having been served with the landlord's application and evidence, I find the tenant was duly served in accordance with the Act. The tenant confirmed that they did not serve any evidence on the landlord.

### Preliminary and Procedural Matters

The parties were informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The parties were also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the parties were informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. Neither party had any questions about my direction pursuant to RTB Rule 6.11.

In addition, the landlord confirmed their email address at the outset of the hearing and stated that they understood that the decision and any applicable orders would be

emailed to them. The tenant confirmed they had a difficulty accessing email. As a result, the decision will be mailed to the tenant who continues to occupy the rental unit.

The tenant requested an adjournment so they would have time to review all of the landlord's evidence. The tenant's request was denied as the parties were advised of the Rules of Procedure in the Notice of a Dispute Resolution Hearing dated March 2, 2022 and were also advised the deadlines related to the submission of evidence were critical. I find the tenant's request for an adjournment was an attempt to delay a possible eviction as the tenant failed to indicate what documents they did not have the opportunity to review and had earlier in the hearing confirmed they had reviewed all documents and the application in full. I also note that this matter relates to an urgent application, which I find a delay would not justify an adjournment based on contradictory testimony from the tenant.

#### Issues to be Decided

- Is the landlord entitled to end the tenancy early and obtain an order of possession for health or safety reasons under section 56 of the Act?
- If yes, is the landlord entitled to the recovery of the cost of the filing fee?

#### Background and Evidence

A copy of the tenancy agreement was submitted in evidence. The tenancy began on May 15, 2020. The tenant paid a security deposit of \$700.00 at the start of the tenancy, which the landlord continues to hold.

The landlords have applied for an order to end the tenancy early based on several issues:

1. Threat to health and safety of other tenant and their property.
2. Association with drug addicts who often enter building high on drugs and leaving the main door open causing safety risk to building and have been caught stealing.
3. Tenant makes other tenants uncomfortable (petition drafted and submitted).
4. Tenant has excreted bodily fluids on the main entrance door handle which was reported to police.

During the hearing, the landlord also alleged a guest of the tenant assaulted him; however, I find that incident was not listed in this application, so I have not considered it further as I find the tenant was not provided due notice of that matter for this hearing as

is required under the Act and RTB Rules and is a fundamental principle of natural justice.

Although the landlord called a witness, AS, to give testimony regarding an incident in November 2021, the witness did not see the tenant blow his nose and put his bodily fluid on the door handle as he said it was his wife who witnessed the incident and the wife of the witness was not called as a witness.

The main incident that the landlord relied on their photo and video evidence was related to February 8, 2022, when the tenant confirmed their friend, DB (support) also permitted a woman with a purple jacket and black backpack (Woman) into the building. The 3 of them are waiting in front of the elevator together. The tenant admitted that DB was his guest but denied that the Woman was his guest. The tenant admitted that the Woman was a guest of DB.

In another video, the Woman is seen in the secured underground checking vehicle doors and is going from vehicle to vehicle. The landlord confirmed that guests do not have access to the secured parking without a parking fob. The landlord stated that the Woman was trying to steal from the vehicles but because none of them were open, the Woman stole items from a parking stall where a person was moving into the building and items were stolen from the parking stall.

The landlord also presented a signed petition from 24 tenants of the building (Petition), which states as follows:

September 18, 2021



Dear Mr. [REDACTED]

I am writing this letter to bring to your attention something that I believe is unfair and requires attention. We as tenants pay a lot of hard-earned money to live in this apartment building. We find ourselves sharing space particularly in the hallways and elevators with homeless people who are often unclean and high on drugs, this is particularly disturbing as some of us have children who often have to share the space with these people who are not part of our pandemic bubble, and their state of health is questionable.

These people have been observed coming into the building with a tenant from unit [REDACTED] or are given access into the building by the same tenant. We demand that something be done to restrict these people from entering the building. We understand that he has a right to have visitors just like any other tenant however we cannot be forced to ride the elevator with drug addicts and stand a chance of being exposed to possible sickness.

If this is not dealt with, we will be forced to ask that you release us from our tenancy agreements as we strongly believe that this not only bad for the image of the building, but it also puts us in danger of exposure to illness, it is also a cause of mental anguish for us and our children to be exposed to these people in such close quarters. Attached are signatures of other concerned tenants. I hope this matter will be resolved as a matter of urgency.

Yours sincerely

[REDACTED]

[Personal information redacted to protect privacy]

The 24 tenants who signed the petition indicate that they are concerned about their safety and security, especially with children being in the building. The unit number redacted above is the unit number of the tenant.

### Analysis

Based on the documentary evidence and the testimony provided by the parties during the hearing, and on a balance of probabilities, I find the following.

Firstly, I find the tenant is not credible, as the tenant denied knowing the Woman in the video who I find was clearly attempting to steal from vehicles and is consistent with the testimony of the landlord. Furthermore, the tenant admitted that they allowed DB (support) to enter the building and that DB allowed the Woman to enter, of which I reminded the tenant that the Woman, by extension, becomes a guest of the tenant when their guest allows another person to enter the building. Therefore, I find the tenant is responsible for the actions of the Woman who was caught on video attempting to steal from vehicles and was in the secured location of the parking, which the Woman had no lawful business to be located in.

Furthermore, I find the Petition supports that at least 24 other tenants in the building are concerned about the tenant and their guests and that something has to be done to restrict the tenant's guests from entering the building. I agree. I find and I am satisfied that the tenant has significantly interfered with and unreasonably disturbed the landlord and other occupants of the residential property. In addition, I find that there is evidence to support that the tenant through their guest, of which I find they are responsible for, engaged in illegal activity, theft and/or attempted theft, that has adversely the quiet



enjoyment, security, safety and physical well-being of another occupant of the residential property. I am also satisfied that it would be unreasonable and unfair to the landlord and the other occupants to wait for a notice to end tenancy under section 47 of the Act. I find the actions of the tenant to be unreasonable and that the testimony of the tenant was self-serving and unreliable and that other tenants have a right to be concerned about the tenant and their guests.

Therefore, pursuant to section 56 of the Act, I **grant** the landlord an order of possession for the rental unit effective **March 31, 2022 at 1:00 p.m.** I find the tenancy ended this date, March 17, 2022 pursuant to section 62(3) of the Act.

As the landlord's application is successful, I grant the landlord **\$100.00** for the recovery of the cost the filing fee under section 72 of the Act. I authorize the landlord to retain \$100.00 from the tenant's \$700.00 security deposit pursuant to sections 38 and 67 of the Act in full satisfaction of the recovery of the cost the filing fee. I find the security deposit is now \$600.00 effective immediately pursuant to section 62(3) of the Act.

### Conclusion

The landlord's application is successful. The tenancy ended this date, March 17, 2022. The landlord is granted an order of possession effective March 31, 2022 at 1:00 p.m.

This decision will be emailed to the landlord and sent by regular mail to the tenant. The order of possession will be emailed to the landlord for service on the tenant. This order may be enforced through the Supreme Court of British Columbia. The tenant is cautioned that they can be held liable for all costs related to enforcing the order of possession.

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*. Pursuant to section 77 of the *Act*, a decision or an order is final and binding, except as otherwise provided in the *Act*.

Dated: March 17, 2022

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Residential Tenancy Branch