



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding City of Kamloops  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      **ET, FFL**

### Introduction

This expedited hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- An order for early termination of a tenancy pursuant to section 56.
- Authorization to recover the filing fee for this application pursuant to section 72.

The agents AR and DC attended for the landlord (“the landlord”) and had opportunity to provide affirmed testimony, present evidence, and make submissions.

The tenant did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional 28 minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant was provided.

The landlord was advised that Rule 6.11 of the Residential Tenancy Branch Rules of Procedure prohibits the recording of dispute resolution hearings. They testified the hearing was not recorded.

The landlord provided their email address to which the Decision shall be sent.

Service upon Tenant

As the tenant did not attend the hearing, the issue of service was addressed.

The landlord testified they served the tenant with the Notice of Hearing and Application for Dispute Resolution by posting to the tenant's door of the unit on March 17, 2022 and with additional evidence by posting to the tenant's door on March 29, 2022.

The landlord provided a witnessed Proof of Service of Expedited Hearing in the RTB form.

In consideration of the landlord's evidence, I find the landlord served the tenant on March 17, 2022, with the Notice of Hearing and Application for Dispute Resolution in compliance with the Act and additional evidence on March 29, 2022, in compliance with the Act.

Issue(s) to be Decided

Is the landlord entitled to the relief requested?

Background and Evidence

The landlord provided the following uncontradicted testimony as the tenant did not attend the hearing. Both agents provided substantial affirmed testimony. They submitted several statements from the landlord's staff, incident reports and copies of police media releases regarding an explosive device and weapons found in the unit.

Not all of this evidence is repeated or referenced in the Decision. Only selected evidence is referred to.

The landlord submitted a copy of the agreement with the tenant. They testified as follows with respect to the tenancy background:

Information	Details
Type of building in which unit is located	Multiple unit apartment building
Type of tenancy	Monthly
Monthly rent payable on first	\$950.00
Security deposit held by landlord	\$475.00
Pet deposit	\$475.00

The landlord made the following written submission in the application and testified as to the veracity:

The tenant has allowed a guest, [E.D.], onto and into the property [address], on numerous occasions. The guest has participated in illegal activity on February 10, 2022 by breaking into unit 324 with a crow bar; bringing weapons and an explosive device into the Tenant's unit 227 that required RCMP attendance, including the bomb team; and the Tenant defecated in a common area.

The landlord testified as follows. They assumed the management of the building on November 1, 2021. They immediately experienced difficulties with the tenant's behaviour which included allowing suspected drug dealers and criminals into her unit. The tenant disrupted other residents by creating noise such as playing music loudly all night. She has defecated in the common areas.

Accordingly, the landlord issued a One Month Notice on February 7, 2022, and served the tenant.

On February 18, 2022, the tenant informed the landlord that her guest E.D. had a gun and a bomb in the unit. The landlord called the police, several units were evacuated for 24 hours, a bomb squad was called in from another city, and the device exposed remotely. After this incident, E.D. was not permitted to return to the property. Nevertheless, the tenant has allowed E.D. to return to the unit and he escaped through a window when the police were called.

The landlord submitted two warning letters to the tenant before the One Month Notice was issued and testified that tenant's behaviour continues unchanged.

The landlord stated the tenant still lives in the unit.

The landlord requested an immediate end to the tenancy and an order of possession.

### Analysis

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

The standard of proof in a dispute resolution hearing is on a balance of probabilities which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim. In this case, the onus is on the landlord.

Section 56(1) of the Act permits a landlord to make an application for dispute resolution to request an order (a) ending a tenancy on a date that is earlier than the tenancy would end of notice to end the tenancy were given under section 47, and (b) granting the landlord an order of possession in respect of the rental unit. The section states:

#### ***Application for order ending tenancy early***

**56 (1)** *A landlord may make an application for dispute resolution to request an order*

*(a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [landlord's notice: cause], and*

*(b) granting the landlord an order of possession in respect of the rental unit.*

Expedited hearings are for serious matters; they are scheduled on short timelines and on short notice to the respondent.

*Policy Guideline 51 – Expedited Hearings* provides guidance on applications of this nature. The Guideline states that the expedited hearing procedure is for circumstances where there is an imminent danger to the health, safety, or security of a landlord or tenant, or a tenant has been denied access to their rental unit.

The Guideline states in part as follows:

*Ordinarily, the soonest an application for dispute resolution can be scheduled for a hearing is 22 days after the application is made. This helps ensure a fair process by giving the respondent ample time to review the applicant's case and to respond to it. However, there are circumstances where the director has determined it would be unfair for the applicant to wait 22 days for a hearing. These are circumstances where there is an imminent danger to the health, safety, or security of a landlord or tenant, or a tenant has been denied access to their rental unit.*

...

*Applications to end a tenancy early are for very serious breaches only and require sufficient supporting evidence. An example of a serious breach is a tenant or their guest pepper spraying a landlord or caretaker.*

*The landlord must provide sufficient evidence to prove the tenant or their guest committed the serious breach, and the director must also be satisfied that it would be unreasonable or unfair to the landlord or other occupants of the property or park to wait for a Notice to End Tenancy for cause to take effect (at least one month).*

*Without sufficient evidence the arbitrator will dismiss the application. Evidence that could support an application to end a tenancy early includes photographs, witness statements, audio or video recordings, information from the police including testimony, and written communications. Examples include:*

- *A witness statement describing violent acts committed by a tenant against a landlord;*
- *Testimony from a police officer describing the actions of a tenant who has repeatedly and extensively vandalized the landlord's property;*
- *Photographs showing extraordinary damage caused by a tenant producing illegal narcotics in a rental unit; or*

- *Video and audio recordings that clearly identify a tenant physically, sexually or verbally harassing another tenant.*

To grant an Order of Possession under section 56(1), I must be satisfied as follows:

*56 (2) The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,*

*(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, **and***

***(b) 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 [landlord's notice: cause] to take effect.***

*(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.*

(emphasis added in bold)

The landlord relied on sections (a)(i) and (ii). That is, the tenant had:

- (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;*

After considering the Act, hearing the testimony and reviewing the evidence, I find the landlord has established both grounds, that is, that the tenant has significantly interfered with or unreasonably disturbed people living in the building, and the tenant has seriously jeopardized the health and safety of the occupants of the building.

I find the tenant has disturbed occupants of the building by creating noise at all times of the day/night. I find the tenant has guests of an undesirable character who come and go at all hours, and one of whom had a weapon and an explosive device in the unit. I accept the evidence that the tenant's behaviour and the attendance of guests at the unit has resulted in the police attending the unit many times thereby disturbing other occupants who are anxious and afraid.

I find the landlord provided credible testimony and sufficient supporting evidence. I find the landlord has established that the events happened in the manner to which they testified. I find the landlord's account of what took place to be reliable and believable.

I find the landlord has shown that there is a reasonable risk of danger or harm to the occupants of the building and a risk of ongoing disturbance to them.

In summary, in considering the evidence and submissions, I find the landlord has met the burden of proof with respect to both sections.

I also find the landlord has met the burden of proof with respect to the second part of the test, as follows:

*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 [landlord's notice: cause] to take effect.*

I find the landlord has established that it is unreasonable or unfair to wait for the landlord to apply for an Order of Possession with respect to the a One Month Notice to End Tenancy for Cause in view of the weapon and explosive device brought into the unit the tenant's guest, the pattern of accelerating dangerous and disruptive behavior over many months, and the nature of the serious and unacceptable conduct.

Taking into consideration all the oral testimony and documentary evidence presented, I find on a balance of probabilities that the landlord has met the onus of proving their claim for an order under section 56 of the Act.

Accordingly, I allow the landlord's application for an early end to this tenancy and an Order of Possession will be issued.

The landlord is entitled to deduct the filing fee of \$100.00 from the security deposit.

I caution the landlord to take all reasonable care to protect their safety. I advise the landlord to seek the protection and services of the police and to consult RTB about safety measures going forward.

### Conclusion

I grant an **Order of Possession** pursuant to section 56 (Early End of Tenancy) to the landlord effective **on two days' notice**. This Order must be served 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: April 19, 2022

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Residential Tenancy Branch