



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

**Dispute Codes**      ET

### **Introduction**

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("the *Act*") for an early end to this tenancy and an Order of Possession pursuant to section 56.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:43 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. The landlords appeared with their legal counsel, and were given a full opportunity to be heard, to present sworn 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. During the hearing, I also confirmed that the landlord and I were the only ones who had called into this teleconference.

Pursuant to Rule 6.11 of the RTB Rules of Procedure, the Residential Tenancy Branch's teleconference system automatically records audio for all dispute resolution hearings. In accordance with Rule 6.11, persons are still prohibited from recording dispute resolution hearings themselves; this includes any audio, photographic, video or digital recording. The parties in attendance confirmed that they understood.

The landlords testified that the tenant was personally served with the landlord's application for dispute resolution package and evidence on March 29, 2023, as required by the Standing Order dated March 1, 2021. The landlords testified that this was witnessed by a neighbour, and recorded as well. In accordance with sections 88 and 89 of the *Act*, I find the tenant duly served with the landlords' Application and evidence. The tenant did not submit any written evidence for this hearing.

### **Preliminary Issue—Request to Recover Filing Fee**

Although not requested as part of this application, counsel for the landlords requested recovery of the filing fee.

No amendments were received in accordance with RTB Rule 4.6. These rules ensure that a respondent is aware of the scope of the hearing and are prepared to respond, if they chose to do so.

Given the importance, as a matter of natural justice and fairness, that the respondent must know the case against them, and as the landlords did not request the recovery of the filing fee as part of the original application, nor did the landlords file a proper amendment to add any additional claims, I decline to make any orders in relation to the recovery of the filing fee for this application.

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

Are the landlords entitled to an early end of tenancy and an Order of Possession?

### **Background and Evidence**

While I have turned my mind to all the documentary evidence properly before me and the testimony provided in the hearing, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

The landlords provided the following submissions. This fixed-term tenancy began on July 20, 2021, and continued on a month-to-month basis after January 20, 2022. Monthly rent is currently set at \$1,407.00, payable on the first of the month. The landlords hold a security deposit of \$700.00 for this tenancy. The landlords reside in the main portion of the home, while the tenant rents the basement suite.

The landlords provided detailed written evidence in support of their application. As noted above, only the principal aspects are summarized below. The landlords submit that due to the negligent actions of the tenant, a fire took place inside the suite on February 22, 2023. The landlords maintain that the fire was not a “simple accident”, and that the tenant’s actions posed a significant risk not only to the property, but other occupants in the home.

The landlords submit that not only did the tenant not call 911 or notify the landlords when the fire took place, the tenant continued to disregard the serious and significant nature of this event, and what caused it, causing the landlords great concern for their immediate safety and the potential risk for future incidents in the home.

The landlords stated that around 8:40 p.m., they heard the tenant shouting “fire”, and the landlords’ living room filled with smoke. The fire was extinguished by one of the landlords. Firefighters attended the home after the fire. The landlords submitted a fire report for this incident.

The landlords noted the observations in the fire report, including the following:

*“Housekeeping in this suite was in need of attention. I discussed this with homeowner who was well aware of this and stated that he has been trying to get her to clean up. I suggested it would be a good idea sooner than later”.*

The probable cause in the firefighter’s report noted *“clutter, housekeeping-fire spread conditions”*, and under *“factors contributing to spread: clutter, poor house keeping around stove”*.

The landlords submitted photos of the condition of the suite, and expressed concern that the tenant has failed to maintain the home in a condition that meets health and safety standards, and that puts the home and all occupants at risk. The landlords submit that the firefighters unplugged the stove, and instructed them that they cannot use the stove until it is inspected by an electrician. The landlords submit that they had to make repeated requests for the tenant to comply, and after the incident they had discovered the tenant had disconnected the smoke detector. The landlords also expressed concern that the tenant has not made any improvements to the condition of the suite, and are concerned for the immediate health and safety of all occupants as a result.

### **Analysis**

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 a 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.*

Based on the evidence before me, and the sworn testimony of the landlords, I find that sufficient evidence has been provided to warrant an end to this tenancy for several of the reasons outlined in section 56, as outlined above. I find that the attending firefighters had clearly noted that poor housekeeping and clutter to be probable cause of the fire, as well as a factor in the spread of the flames. I find that the evidence clearly shows that the tenant has disregarded the concerns of not only the landlords, but also the firefighters, which puts the immediate health and safety of the landlords in jeopardy.

I find that following a recent fire, the tenant has been uncooperative with the landlords, and instead of acknowledging and mitigating the risk of a future fire or serious incident, the tenant dismissed these concerns. Furthermore, the landlords provided evidence to show that the tenant removed the smoke detector, causing the landlord further concern.

The second test to be met in order for the landlords to obtain an early end to tenancy pursuant to section 56 of the *Act* requires that a landlord demonstrate that "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" for cause to take effect. On this point, I find that many of the reasons cited by the landlords for circumventing the standard process for ending a tenancy for cause meet the test required to end this tenancy early.

The negligent actions of the tenant, combined with the fact that their lack of cooperation and disregard of the firefighter's recommendations is quite worrisome. I find that the landlords have provided sufficient evidence to support that immediate action was required on part of the tenant to ensure future incidents will not take place. I also note that the tenant has not chosen to appear at this hearing, nor have they provided any

contrasting accounts by way of written evidence. I find that the landlords have provided sufficient evidence to support that the behaviour of the tenant not only puts the property at significant risk, but also the well-being and safety of the landlords and their family who reside upstairs. I find that concerns raised in this application to be serious and well-supported with evidence, and that the potential risk and losses to be too significant if the matter is not addressed in a timely manner.

Under these circumstances, I find that it would be unreasonable and unfair to the landlords to wait for a 1 Month Notice to End Tenancy for Cause to take effect. For these reasons, I find that the landlords have provided sufficient evidence to warrant ending this tenancy early. I issue a two day Order of Possession to the landlords.

### **Conclusion**

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). Should the tenant(s) 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 06, 2023

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Residential Tenancy Branch