

## **Decision**

**Dispute Codes:** ET / OP, FF

### **Introduction**

This hearing dealt with an application from the landlord for an early end of tenancy and an order of possession, in addition to recovery of the filing fee. The landlord's agent participated in the hearing and gave affirmed testimony.

Despite service of the application for dispute resolution and notice of hearing by way of posting on the tenant's door on December 14, 2009, the tenant did not appear.

### **Issues to be decided**

- Whether the landlord is entitled to any or all of the above under the Act

### **Background and Evidence**

Pursuant to a written residential tenancy agreement, the tenancy began on December 1, 2005. Currently, rent in the amount of \$745.00 is payable in advance on the first day of each month. A security deposit of \$350.00 was collected on or about November 30, 2005.

It is asserted in documentation submitted into evidence by the landlord as follows:

A series of fires were set at [the unit / house address], which the police investigation has found is caused by a building tenant [the tenant / respondent].

In the result, a total of 5 charges are being brought against the tenant. In the interests of the safety of other tenants in the building, and the preservation of the building itself, the landlord seeks an early end of tenancy and an order of possession.

## **Analysis**

Section 89 of the Act speaks to **Special rules for certain documents** and provides in part, as follows:

89(2) An application by a landlord under section 55 [*order of possession for the landlord*], 56 [*application for order ending tenancy early*] or 56.1 [*order of possession: tenancy frustrated*] must be given to the tenant in one of the following ways:

(d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides;

On the basis of the affirmed and undisputed testimony of the landlord's agent, I find that the tenant was properly served with the application for dispute resolution and notice of hearing.

Section 56 of the Act speaks to **Application for order ending tenancy early**, and provides in part, as follows:

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.

Further, section 56(2) of the Act states, in part:

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:

- (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;

Based on the documentary evidence and undisputed testimony of the landlord's agent, I find on a balance of probabilities that the tenant has "seriously jeopardized the health or safety" of other occupants of the building, and "put the landlord's property at significant risk." Accordingly, I find that the landlord is entitled to an order of possession.

### **Conclusion**

Pursuant to all of the above, I hereby issue an order of possession in favour of the landlord effective not later than **two (2) days** after service upon the tenant. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As the landlord has succeeded in this application, I order that the landlord may withhold **\$50.00** from the security deposit in order to recover the filing fee.

DATE: December 18, 2009

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Dispute Resolution Officer