

## DECISION

Dispute Codes      ET, FF

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution to end the tenancy early.

### Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to end the tenancy earlier than ending the tenancy under Section 47 and obtain an order of possession; to a monetary order to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to sections 56, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord has submitted into evidence the following documents:

- A copy of a 1 Month Notice to End Tenancy for Cause dated January 15, 2010 with an effective vacancy date of February 28, 2010 citing the tenant is repeatedly late paying rent; the tenant or a person permitted on the property by the tenant has seriously jeopardized the health and safety or lawful right of another occupant or the landlord and put the landlord's property at significant risk; the tenant has engaged in illegal activity that has or is likely to damage the landlord's property and jeopardize a lawful right or interest of another occupant or the landlord; tenant has not done required repairs of damage to the unit; breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so; and security or pet damage deposit was not paid within 30 days as required by the tenancy agreement;
- A copy of local police constable's business card citing a file number;
- A statement from an individual stating he did an electrical inspection stating that the electrical hot water tank was installed in a safe manner;
- A copy of a 24 hour notice of landlord's intent to enter premises dated January 14, 2010 for entry on January 19, 2010 between 10:00 and 1:00 for hot water heater repair;
- A copy of a notice to tenants dated January 7, 2010 to restore the original gas hot water heating system that the tenants had replaced with an electrical heating system on September 26, 2009 – giving the tenants 24 hours to complete;

- A statement from the landlord dated January 15, 2010 stating the tenant prevented her entry on January 14, 2010. The landlord submits the tenant was aggressive and refused her entry and refused to accept a 24 hour notice to enter with a realtor. The landlord also states the tenant “punched” the camera out of her hand when she tried to take a picture of the 24 hour notice, the landlord provided two photographs;
- Receipts for a water heater and supplies dated September 26, 2009 and September 28, 2009;
- List of available witnesses;
- Photograph of two water heaters
- A copy of a 24 hour notice of landlord’s intent to enter premises dated January 4, 2010 for entry on January 17, 2010 between 3:30 and 4:00 to show a prospective tenant or purchaser realtor;
- A copy of a notice to tenants dated January 6, 2010 telling the tenants the lock and signs were installed on the crawl space entry, including photograph of entry;
- List of unpaid money owed to landlord by tenant as of January 15, 2010;
- A copy of a tenancy agreement signed by both parties on November 27, 2008 for a one year fixed term tenancy beginning December 1, 2008 converting to a month to month tenancy on December 1, 2009 with a monthly rent amount of \$1,800.00 due on the 1<sup>st</sup> of the month, a security deposit was paid on December 1, 2008;
- An additional contract dated November 27, 2008 for reduced rent for repairs and finishing the attic; and
- A summary of events leading to the landlord’s application.

The tenant has submitted the following documents into evidence:

- A copy of a Notice of Dispute Resolution Hearing for Monday, February 8, 2010 at 10:30 a.m.;
- A copy of the tenant’s Application for Dispute Resolution (relevant to the hearing in the notice above) to hear his application to cancel a notice for unpaid rent; money owed or compensation for damage under the Act, for an order to have the landlord comply with the Act, make emergency and other repairs and set conditions on the landlord’s right to enter the rental unit and other;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent dated December 30, 2009 with an effective vacancy date of January 11, 2010 for unpaid rent of \$600.00 due on December 30, 2009;
- A copy of the tenant’s certification for completion of CNST 110: Construction Safety Coordinator;
- A listing of results for “search civil by party name” from what appears to be a government of BC website;
- A typed summary of events during the tenancy;
- An email from the tenant to the Residential Tenancy Branch, dated January 18, 2010 outlining a series of events leading to this dispute; and

- Several photographs of inside and outside the property.

The landlord provided testimony affirming the claims in her documentary evidence.

### Analysis

Section 56 of the Act states a landlord may request an early end to a tenancy if the tenant has seriously jeopardized the health or safety or lawful right or interest of the landlord or put the landlord's property at risk and that it would be unreasonable or unfair to wait for a notice to end tenancy to take effect.

The landlord has failed to show in her documentary evidence or in her testimony how it would be unreasonable or unfair to the landlord to wait for a notice to end the tenancy under Section 47. As such, I dismiss her application for recovery of the filing fee for this application.

During the hearing the tenant indicated that he can no longer live in the rental unit and planned to move out by January 31, 2010.

The parties agreed that the tenancy will end effective at 1:00 p.m. on January 31, 2010.

### Conclusion

As per the agreement between the parties, I find that the landlord is entitled to an Order of Possession effective **January 31, 2010 at 1:00 p.m.** This order must be served on the tenant and may be filed in the Supreme Court and enforced as an order of that Court.

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 27, 2010.

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Dispute Resolution Officer