

DECISION

Dispute Codes: ET and FF

Introduction

This application was brought by landlord seeking an Order of Possession under section 56 of the *Act*. This section permits such applications in situations where it would be unreasonable for the landlord to wait for an order under section 47 of the *Act* which requires a Notice to End Tenancy of a minimum of 30 days. The landlord also requested recovery of the filing fee for this proceeding.

Despite having been served with the Notice of Hearing served by posting on the tenant's door as verified by photographic evidence of the package and a witness, the tenant did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

Issue(s) to be Decided

This application requires a decision on whether the landlord is entitled to an Order of Possession and, if so, the effective date of such order.

Background and Evidence

During the hearing, the landlord gave evidence that, during a call at the rental unit, a service provider became alarmed at the condition of the rental unit and notified officials of concerns regarding the safety and well being of the tenant.

Consequently, the rental unit was inspected by an Environmental Health Officer, Fire Inspector, and Police Officer on December 29, 2009. The landlord has also been in contact with the Employment and Assistance Worker office and the tenants' family. There is, he said, a consensus that the tenant is no longer capable of independent living.

By letter of December 30, 2009, the Senior Environmental Health Officer wrote to the landlord advising that the state of the suite "constitutes a health hazard to the occupant and to other occupants" of the residential building.

The officer declared the suite to be a health hazard and unfit for human habitation under the *Public Health Act* and issued an order that it must be cleaned, sanitized and made habitable.

The landlord gave evidence that an early end of the tenancy was essential for the well-being of the subject tenant and other tenants in the building, and that he been communicating the tenant's family and concerned officials toward finding suitable accommodation for the tenant.

The landlord submitted numerous photographs which clearly demonstrated the health inspector's conclusion that the rental unit is filled with "rotting food, garbage, debris and filth."

Analysis

Section 56(2)(a) of the *Residential Tenancy Act* provide that an Order of Possession for an early end of tenancy may be issued, among other reasons, where the tenant has “(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant; and/or (iii) put the landlord's property at significant risk.”

I find that the condition of the suite in question clearly jeopardizes the health and safety of the tenant and other occupants of the building and puts the landlord's property at significant risk.

Accordingly, I find that the landlord is entitled to an Order of Possession effective two days from service of it on the tenant.

The landlord has made promise that he will not enforce the order until he has contacted the appropriate officials and family of the tenant and given reasonable time, up to January 29, 2010, for those parties to arrange for suitable accommodation for the tenant.

Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, effective two days from service on the tenant, subject to the landlord's promise to withhold enforcement under the conditions previously stated.

I further find that the landlord is entitled to recover the filing fee for this proceeding from the tenant and hereby authorize and order that he may retain \$50 from the tenant's security deposit for that purpose.

January 12, 2009