

## **Decision**

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

### **Introduction**

This hearing dealt with an application by the landlord for an early end to tenancy / order of possession, in addition to recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

### **Issues to be decided**

- Whether the landlord is entitled to either or both of the above under the Act

### **Background and Evidence**

Pursuant to a written residential tenancy agreement, the month-to-month tenancy began on July 1, 2009. Rent in the amount of \$750.00 is payable in advance on the first day of each month. A security deposit of \$375.00 was collected on July 1, 2009.

Arising from concerns about the tenant's conduct and behavior, the landlord issued a 1 month notice to end tenancy for cause dated February 1, 2010. Specifically, the landlord claims the tenant was abusive, threatening and confrontational in telephone conversations and in messages left on the landlord's answering machine. The landlord served the notice on the tenant in person on February 1, 2009 with the presence of police. A copy of the notice is not before me in evidence, however, the tenant testified that reasons shown on the notice for its issuance are as follows:

Tenant or a person permitted on the property by the tenant has:

significantly interfered with or unreasonably disturbed another occupant or the landlord

seriously jeopardized the health or safety or lawful right of another person or the landlord

put the landlord's property at significant risk

Following service of the notice, the landlord testified that he received additional threatening phone calls from the tenant which led to his contacting police again. Thereafter, the landlord applied for an early end to tenancy / order of possession.

During the hearing the tenant did not dispute the landlord's grounds for requesting an early end to tenancy / order of possession, but sought to remain in the unit until towards the end of February. The landlord's position is that the tenant's conduct and behavior posed a serious threat to him as well as to other residents, and he therefore declined to extend the tenancy towards the end of February.

### **Analysis**

Based on the documentary evidence and testimony of the parties, I find that the tenant was served with a 1 month notice to end tenancy for cause dated February 1, 2010. The tenant did not dispute the notice within 10 days following its receipt. The tenant is therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the notice.

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

(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.

Following consideration of the documentary evidence and the affirmed testimony of the parties, I find that the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property, and seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant. I further find that 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 of the Act to take effect. Accordingly, I find that the landlord is entitled to an early end to tenancy and an order of possession.

As the landlord has succeeded in this application, I find that the landlord may recover the filing fee by way of withholding \$50.00 from the security deposit.

### **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.

I hereby order that the landlord may withhold **\$50.00** from the security deposit in order to recover the filing fee.

DATE: February 15, 2010

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Dispute Resolution Officer