

## **Decision**

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

### **Introduction**

This hearing dealt with an application by the landlord for an early end to tenancy and an 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 any or all of the above under the Act

### **Background and Evidence**

Pursuant to a written residential tenancy agreement, the month-to-month tenancy began on November 1, 2007. Currently, rent in the amount of \$425.00 is payable in advance on the first day of each month. A security deposit of \$197.50 was collected on October 29, 2007.

The landlord issued a 1 month notice to end tenancy for cause dated December 31, 2009. The notice was served in person on the tenant on that same date. A copy of the notice was submitted into evidence, and the reasons shown on the notice for its issuance are as follows:

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

Seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The date shown on the notice by when the tenant must vacate the unit is January 31, 2010, however, the tenant continues to reside in the unit. In the result, the landlord has

requested an early end of tenancy and an order of possession effective February 14, 2010.

The tenant does not disagree that he failed to dispute the 1 month notice by filing an application for dispute resolution. However, he claims that allegations related to his verbally abusive and physically threatening conduct towards the live-in building manager are not true. As to the allegation that he had apparently been drinking alcohol prior to the occasion when the subject behaviours are said to have occurred on December 1, 2009, the tenant declined to confirm or deny.

### **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 December 31, 2009. The tenant did not file an application to 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:

(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;

Following consideration of the documentary evidence and testimony of the parties, and further to the fact that the tenant did not dispute the 1 month notice (as above), I find that by way of his behavior on December 1, 2009, the tenant seriously jeopardized the

health or safety or a lawful right or interest of the landlord or another occupant. 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 tenant's 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 **1:00 p.m., Sunday, February 14, 2010**. 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 tenant's security deposit in order to recover the filing fee.

DATE: February 10, 2010

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Dispute Resolution Officer