

DECISION

Dispute Codes: ET and FF

Introduction

This application was brought by landlord on February 5, 2010 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 one full month. The landlord also requested recovery of the filing fee for this proceeding.

As a matter of note, the landlord issued a Notice to End Tenancy for cause on February 1, 2010, with an end of tenancy date of March 31, 2010, following disturbances in the rental unit.

Despite having been served with the Notice of Hearing on February 5, 2010, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

Issue(s) to be Decided

This matter requires a decision on whether the alleged conduct of the tenant has been substantiated and whether it is of sufficient magnitude to warrant an Order of Possession to end the tenancy early under section 56 of the *Act*.

Background and Evidence

During the hearing, the landlord gave evidence that the application to end the tenancy early was made following an incident shortly after midnight on February 5, 2010 when police had been called to a disturbance at the rental unit.

When police arrived, they were assaulted by the tenant and in the process of taking him into custody, were assaulted by the brother of the tenant. During the police involvement, the landlord's employee was threatened first by the tenant's brother and by a female present in the rental unit. A third party was taken into custody on an outstanding warrant.

The landlord stated that the police had told him of extensive damage to the rental unit and during an inspection, he had noted a number of holes in the walls, broken doors, and he had submitted a photograph showing that the entry door to the rental unit had been kicked in.

The landlord also submitted into evidence two warning letters to the tenant dated January 11, 2010 and July 27, 2009 resulting from disturbances in the rental unit as well as letters from two other tenants in the building dated January 30, 2010 complaining of disturbances in the rental unit to approximately 5 a.m. One writer noted that it was the third time in a year that the writer had to call police about disturbances in the rental unit.

Analysis

Pursuant to section 56 of the *Act*, I find that the tenant or persons permitted on the property by the tenant have:

1. Significantly interfered with and unreasonably disturbed other occupants or the landlord;

2. Seriously jeopardized the safety or lawful right or interest of the landlord and other occupants;
3. Put the landlord's property at significant risk;
4. Engaged in illegal activity contributing to the noted consequences.

Therefore, I find that it would be unreasonable and unfair to the landlord and other occupants to have to wait for the Notice to End Tenancy of February 1, 2010 to take effect. Therefore, I find that the landlord is entitled to end the tenancy early.

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. I further authorize and order that the landlord may retain \$50 from the tenant's security deposit in recovery of the filing fee for this proceeding.

February 23, 2010