

## **DECISION**

Dispute Codes      ET, FF

### Introduction

This hearing was scheduled in response to the landlords' application for Dispute Resolution, in which the landlord has applied for an Order of Possession on an Early End to Tenancy.

The landlord stated that the application and Notice of hearing was given in person to the tenant on February 24, 2010 at 3.45 pm and was witnessed by one other person. The witness attended the hearing and gave sworn testimony that service of the hearing documents was carried at on February 24, 2010. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*.

The landlords' agent appeared, gave affirmed testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

### Issues(s) to be Decided

Is the landlord entitled to end the tenancy early and gain an Order of Possession on the basis of her application pursuant to section 56 of the *Act*.

### Background and Evidence

This month to month tenancy started on November 01, 2009. Rent for this unit is \$675.00 per month and is due on the first of each month.

The landlords' agent states that the tenant and her boyfriend have significantly interfered with and unreasonable disturbed other tenants living in the building. Other tenants have made complaints to the landlord about the loud noise coming from the tenants unit late at night and continuing into the morning hours. The landlords' agent states that the tenant, her boyfriend or

guests to her unit have loud and disturbing fights, play loud music late at night and appear to only sleep between 5.00 am and 11.00 am. This loud noise has raised concerns with other tenants who have their sleep constantly disturbed and has disrupted their right to quiet enjoyment of their own units.

The landlord has provided letters from other tenants concerning these tenants' actions. These letters also state that the tenants' boyfriend has knocked on the neighbouring tenant's door and was intimidating to the tenants because they complained to the landlord about the noise. The Police have been called out on three occasions and have advised the landlords' agent not to enter the tenants unit alone because of the tenants' boyfriend who appears to be residing in the unit with the tenant.

The landlord also claims the tenant has caused excessive damage to the suite. On one occasion the large window in the unit was broken by the tenant which caused a dangerous situation to anyone passing by underneath as large shards of glass came from the window. At present this window is covered with clear film such as Saran Wrap and the tenant has not asked the landlord to replace the glass. The landlords' agent states that the tenant and persons permitted on the residential property by the tenant have put the landlords' property at significant risk and have caused damage to the rental unit. The landlords' agent has provided photographs of the unit taken when the tenant was served with notice of the hearing. These pictures show damage to the unit with large holes in the drywall and the broken window.

The landlord has concerns about more damage being caused by the tenant or others in the rental unit if the tenancy is allowed to continue particularly with the open window space. The landlord requests an early end to the tenancy and an Order of Possession to take effect as soon as possible.

### Analysis

Section 56(2) of the *Act* authorizes me to end a tenancy earlier than the tenancy would end if Notice to End Tenancy were given under section 47 of the *Act* and grant an Order of Possession for the rental unit if the tenant or persons 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;
- (iv) engaged in illegal activity that
  - (A) has caused or is likely to cause damage to the landlord's property,
  - (B) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or
  - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- (v) caused extraordinary damage to the residential property, and
- (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.

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

I find that the landlord has provided sufficient evidence, pursuant to section 56 of the *Act*, to show that the tenant has significantly interfered with or unreasonably disturbed other occupants of the residential property and put the landlord's property at significant risk. I further find the tenant or person permitted on the residential property by the tenant has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property.

I find the neighboring tenants are continually disturbed by the actions of this tenant or guests to her rental unit and feel intimidated by the tenants' boyfriend who is permitted to either reside in the rental unit or to visit on frequent occasions. I find the damage to the rental unit is such that has caused and is likely to cause more damage to the landlords' property.

Due to the above I am satisfied, that it would be unreasonable and unfair for the landlord or other occupants of the residential property to wait for a One Month Notice to End Tenancy under section 47 of the *Act* to take effect and allow the landlords application for an early end to the tenancy.

### Conclusion

The landlords' application for an Order to end the tenancy early is granted. An Order of Possession to take effect at **two days** after service of this order on the tenant has been issued to the landlord. A copy of this Order must be served on the tenant. The Order of possession is enforceable through the Supreme Court of British Columbia.

**I further Order** the tenants to pay the landlords costs of filing this application of \$50.00.

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: March 03, 2010.

---

Dispute Resolution Officer