

DECISION

Dispute Codes: ET, O and FF

Introduction

This application was brought by landlord on March 4, 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.

On examining the substance of the landlord's application, I find that it is not related to a matter that falls within section 56 of the Act. Therefore, I have permitted the landlord to amend his application to request an Order of Possession under section 55(2)(d) of the *Act* which permits a landlord to request an Order of Possession in support of a Mutual Agreement to End Tenancy.

Despite having been served with the Notice of Hearing in person on March 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 landlord is entitled to an Order of Possession pursuant to mutual agreement to end the tenancy.

Background and Evidence

This tenancy began on December 1, 2009 in conjunction with an agreement of purchase and sale in which the landlord purchased the property from the tenant. The rental agreement was for a fixed term to end no later than February 28, 2010 with the tenant having an option to conclude the tenancy earlier with notice.

The landlord gave evidence that when he attended the rental unit in early March 2010, he was surprised to find that the tenant had not vacated. He stated that the tenant had said he had encountered some set back in his planned future residence and requested permission to remain until March 31, 2010.

The landlord concurred and has asked for an Order of Possession for March 31, 2010 to ensure his right to gain possession of the rental unit on the extended end of tenancy date.

Analysis

I find that, since February 28, 2010, the tenant has been overholding the rental unit as defined under section 57(1) of the *Act*.

I further find that the parties have mutually agreed to extend the end of tenancy date to March 31, 2010 and that the landlord is entitled to an Order of Possession in support of that agreement.

Conclusion

Accordingly, the landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, effective at 1 p.m. on March 31, 2010.

I find that, having brought application under an inapplicable section of the *Act*, that the landlord should remain responsible for his own filing fee.

March 12, 2010