

## **DECISION**

**Dispute Codes:** CNC

### **Introduction**

This application was brought by the tenant seeking to have set aside a one-month Notice to End Tenancy for cause served on March 18, 2010.

### **Issues to be Decided**

This application requires a decision on whether the Notice to End Tenancy should be set aside or upheld.

### **Background and Evidence**

This tenancy began on or about October 1, 2009. Rent is \$650 per month and the landlord holds a security deposit of \$325.

During the hearing, the landlord gave evidence that he had served the Notice to End Tenancy after the tenant refused entry to an electrician engaged by the landlord to correct electrical deficiencies in the rental unit. As a result, the landlord was billed \$390.60 for the futile service call.

The landlord stated that he had given the tenant the option of compensating him for the unnecessary extra bill, or enforcement of the Notice to End Tenancy.

The parties concurred that the tenant had initiated the request for the electrical repairs, which according to the landlord, had been necessitated by the previous tenant having made alterations to the wiring.

The electrician attended the rental unit on Friday, March 12, 2009 to assess the job and had stated he would be returning the following week when he had obtained the necessary materials. He returned on Tuesday, March 17, 2009 prepared to do the work but the tenant declined to admit him on the grounds that he had not been given 24-hour notice as required under section 29 of the *Act*. The tenant gave explanation that he had been up all night assisting a friend and was in dire need of rest.

The tenant was then served notice and the electrician returned on Thursday, March 19, 2009.

The electrician gave evidence that when the tenant answered the door on the Thursday, he again expressed displeasure at the call and that his body language was such that the electrician felt it prudent not to proceed. He said he was accompanied by a female apprentice who concurred that they would be courting trouble if they entered the suite, both as a result of the tenant's apparently angry state and having to work with live wiring in a tense environment. The electrician arranged with the landlord to return to do the work the next day if/when the tenant was not present.

The electrician stated that he felt the job was sufficiently urgent that he had given it priority. He stated that his billing to the landlord was for the three hours of travel time to the job, unloading then reloading the truck and travel to the next job. He said they were fortunate in being able to reschedule another job for the remaining five hours of the day.

The tenant stated that he had not refused entry. The tenant also proposes that he had not put the landlord's property at significant risk as stated on the Notice to End Tenancy as the electrical problem had been reported to landlord some two months before.

## **Analysis**

Section 47(1)(d)(iii) states that a landlord may issue a Notice to End Tenancy in circumstances in which the tenant has put the property at significant risk.

I accept the evidence of the electrician that the problem was of sufficient concern as to warrant a permit for the job and for the electrician to make the job a priority.

I find that, on the balance of probabilities that the path of least resistance for the electrician, having travelled to the site with an apprentice and having unloaded the materials, would have been to do the job. I find that to be dissuaded from that course of action would have required genuine and considered concern for problems and escalating conflict.

Therefore, I find that the conduct of the tenant did put the landlord's property at significant risk and , I declined to set aside the Notice to End Tenancy.

On hearing that determination, the landlord requested and I find he is entitled to an Order of Possession. After some discussion, the landlord agreed to June 30, 2009 as an end of tenancy date, and repeated his willingness to continue the tenancy if the tenant proposed a reasonable payment program to compensate him for the wasted service call.

## **Conclusion**

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 June 30, 2010.

May, 2010