

## **DECISION**

**Dispute Codes:** ET and FF

### **Introduction**

This application was brought by landlord on June 17, 2010 seeking an Order of Possession to end the tenancy early 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 30 days. The landlord also requested recovery of the filing fee for this proceeding.

Despite having been served with the Notice of Hearing sent by registered mail on June 18, 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 application requires a decision on whether the landlord is entitled to an Order of Possession and, if so, the effective date of such order.

### **Background and Evidence**

This tenancy began on November 1, 2009. Rent is \$550 per month and the landlord holds a security deposit of \$275 paid on November 1, 2009.

During the hearing, the landlord gave evidence that at approximately 9:30 a.m. on June 16, 2010, he observed a male urinating from the window of the rental unit. He could not identify the person, but has no doubt of the rental unit involved.

The landlord attended the rental unit and asked the tenant if he was the person the landlord had seen. The tenant denied it and was asked if there was another person in the unit who might have done it.

At that point the tenant flew into a rage and assailed the landlord with a number of derogatory comments and threatened to kill him twice.

When he was able to disengage from the conversation, the landlord retreated to his shop on the other side of a set of fire doors from the apartment where he received a call from another tenant asking if he was okay.

After a couple of minutes, the subject tenant kicked at his shop door and resumed the tirade. He pushed the landlord into the shop and again uttered threat and left, kicking the fire doors on the way. Witnesses from three adjoining apartments witnessed the incident.

The landlord gave evidence that the tenant has been charged, will appear in court on August 17, 2010 and is currently subject to a no contact order.

The landlord submitted two letters from other tenants who witnessed the incident and corroborated the landlord's account.

## **Analysis**

Section 56(2)(a) of the *Residential Tenancy Act* provides that an Order of Possession for an early end of tenancy may be issued, among other reasons, where the tenant or a person permitted on the property by the tenant, has:

- (ii) 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;

I find as fact that the tenant has significantly interfered with and disturbed the landlord and other occupants and seriously jeopardized their safety and lawful interests, and also did so in the course of illegal activity as set out in section 56(2)(a)(iv).

Accordingly, I find that the landlord is entitled to an Order of Possession effective two days from service of it on the tenant.

I further find that the landlord is entitled to recover the filing fee for this proceeding and authorize that he may recover retain \$50 from the tenant's security deposit for that purpose.

## **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 of it on the tenant.

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

June 30, 2010