

DECISION

Dispute Codes: ET and FF

Introduction

This application was brought by landlord on June 2, 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 30 days. The landlord also requested recovery of the filing fee for this proceeding.

The tenant did not call in to the number provided to enable his participation in the telephone conference call hearing and 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 February 18, 2010. Rent is \$1,400 per month and the landlord holds a security deposit of \$700.

During the hearing, the landlord and representatives of the strata corporation gave evidence that the tenant was incarcerated on or about May 13, 2010. They stated that

police had been conducting surveillance of the rental unit from a nearby unit, and placed the tenant under arrest after executing a search warrant on the rental unit.

The witnesses gave evidence that police had advised them that, as a result of materials found in the rental unit, the tenant is facing charges of 17 counts of property and identity theft offences.

The landlord submitted into evidence a letter from the Vancouver Police Department stating that the tenant had provided the landlord with a false BC driver's licence and social insurance card, and had entered into the rental agreement under the false name.

The letter confirms that the tenant "...has been charged with several offences in relation to this, and several other acts of fraud, and is awaiting trial."

The landlord stated that the tenant has not paid rent for two months, and had passed duplicate keys to the rental unit to friends.

The landlord stated that the tenant's girlfriend had lived in the rental unit but that it has not been occupied since June 2, 2010.

Some of the tenant's belongings remain in the unit.

Analysis

Section 56(2)(a) of the *Residential Tenancy Act* provide 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)seriously jeopardized..the safety ...or a lawful right or interest of the landlord or another occupant,” and (iv) engaged in illegal activity that jeopardized a lawful interest or safety of the landlord or another occupant.

I find as fact that the tenant used a false name when entering into a rental agreement with the landlord and that, on the balance of probabilities, engaged in illegal activities in the rental unit.

I further find that by making fraudulent misrepresentation in creating the rental agreement, the tenant relinquished the rights and protection bestowed upon tenants by the *Residential Tenancy Act*.

Accordingly, I find that the landlord is entitled to an Order of Possession effective immediately.

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.

The landlord is referred to “Part 5 – Abandonment of Personal Property” of the *Regulations* under the *Act* for guidance on the disposition of goods remaining in the rental unit.

Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, effective immediately.

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

June 17, 2010