

## **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 June 30, 2010 and setting an end of tenancy date of July 31, 2010. Causes cited on the notice included significant interference with or unreasonable disturbance of other occupants or the landlord. The notice also cited illegal activity adversely affecting the security, safety or well being of other occupants or the landlord.

### **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 July 1, 2007. Rent is \$520 per month and the landlord holds a security deposit of \$260 paid on July 1, 2010.

During the hearing, the landlord gave evidence that the Notice to End Tenancy had been served after a series of incidents and complaints of the tenant disturbing others by late-night loud arguments, and other loud disturbances in the rental unit and common areas of the rental building.

The landlord gave evidence that while she had lived in the building since November of 2009, she had become manager in May 2010. She stated that she lives across the hall from the subject tenant and that in November 2009, she was aware of three different loud arguments in the hall between the tenant's visiting husband and son involving yelling, foul language and slamming of doors. In December, a similar event took place between the tenant and her husband.

On June 10, 2010, the landlord received complaints from other tenants of the subject tenant fighting with her male guest in the hallways at all hours. The landlord stated that she was awoken at 3 a.m. by a person in the parking lot sounding their horn to get the attention of the subject tenant who arose and let them in.

On July 9 or 10<sup>th</sup>, the landlord was awoken by a woman knocking on her door at 4 a.m. who stated she was at the wrong apartment and proceeded to that of the subject tenant where she stated for approximately 15 minutes. On or about August 10, 2010, another guest moved in with the tenant and late night disturbances in the rental unit and hallway continued.

The landlord's witness, also a tenant, corroborated the landlord's evidence and added that she had seen the tenant's guest using a crack pipe outside the rental unit.

The landlord also submitted letters from three tenants reporting incidents of noise disturbance and she stated that one tenant had moved out because of the conduct in the subject tenant's rental unit.

A former acting caretaker appeared and submitted a written statement on behalf of the tenant. She stated that her tenancy overlapped that of the tenant for about half a year

to December 2008. She stated that the tenant had not been a problem during that period, although she said the tenant's boyfriend at the time was a "nasty problem."

### **Analysis**

Section 47 of the Act provides that a landlord make service a Notice to End Tenancy in circumstances in which, among others, the tenant or person allowed on the property by the tenant, have significantly interfered with or disturbed other occupants or the landlord and acted in a manner that jeopardized their lawful rights.

In this matter, while I find there is insufficient evidence of illegal activities, I do find that the tenant and/or her guests have unreasonably disturbed other occupants and jeopardized their lawful rights to quiet enjoyment.

Therefore, I find that the Notice to End Tenancy of June 30, 2010 is lawful and valid and I declined to set it aside. On hearing that determination, the landlord requested, and I find she is entitled to, an Order of Possession under section 55(1) of the *Act*, to take effect on September 15, 2010.

### **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 September 15, 2010.

August 31, 2010