

## **DECISION**

**Dispute Codes:** ET

### **Introduction**

This application was brought by landlord on November 8, 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 one month.

Despite having been served with the Notice of Hearing sent by Registered Mail on December 13, 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 under the requirements of section 56 of the *Act* and, if so, the effective date of such order.

### **Background and Evidence**

This tenancy exists in a side by side duplex, one half of which is the residence of the landlord and the other of the tenant.

During the hearing, the landlord gave evidence that this application was made following an incident on the evening of December 11, 2010 during which the tenant approached her seeking money for a service person he said was in his unit awaiting payment for services he had performed.

The landlord stated that she would go and speak to him causing the tenant to go into a fit of rage during which he uttered threats including death again the landlord.

As a result, the tenant was arrested by police and resulting in a restraining order barring him from the rental building until a court appearance scheduled for March 15, 2010.

The tenant was charged with uttering threat and attempted fraud. Subsequently, police officers brought him back to the rental unit to remove his belongings.

Sometime following, two detectives appeared at the tenant's door at approximately 3 a.m. to check on his presence as required under a probation order. When advised of events by the landlord, they made enquiries and advised the landlord that the tenant now had a different address.

## **Analysis**

By uttering threat, I find that the tenant has breached section 56(2)(a)(iv)(B) of the *Residential Tenancy Act* which 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 engaged in illegal activity that:

“ has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property ...”

Accordingly, I find that the landlord is entitled to an Order of Possession to take effect at 1 p.m. on December 23, 2010 as requested by the landlord.

## **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 December 23, 2010.

December 23, 2010