

DECISION

Dispute Codes: ET

Introduction

This application was brought by landlord on January 5, 2011 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 served by posting on the rental unit door on January 5, 2011, 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 in the lower portion of the landlords' home began in September 2008.

During the hearing, the landlord gave evidence that this application was made following recent incidents in late December 2010 in which the police have made telephone enquiries of her as to whether the tenant still lived in the rental building. Following that,

the landlord stated that she had noticed a man watching the house who identified himself as a police officer when asked.

She stated she has observed the house being under surveillance on a number of recent occasions, police have photographed the residence and police officers spent three hours in the rental unit recently having obtained the key from the tenant.

The landlord stated that he husband is currently hospitalized and she is concerned for her safety due to the unusual conduct of the tenant.

In addition, the landlord noted:

1. The tenant had been arrested in the rental unit in May of 2009 in an incident in which he allegedly threatened a female guest with a knife who ran upstairs and asked the landlord to call 911. He ignored the landlord's pleadings to find new accommodating at that time;
2. On December 30, 2009, the tenant advised the landlord he had a small fire in the kitchen which he extinguished on his own, but leaving some damage which remains. He continued to state he was actively looking for new accommodation as requested by the landlord;
3. On March 15, 2010, the landlords issued the tenant with a two-month Notice to End Tenancy for landlord use as they no longer wished to be landlords. The tenant continued to say he was looking, but did not honor the Notice to End Tenancy and remained in the rental unit
4. The landlord recently gave the tenant 24-hour notice for a suite inspection, and while he initially agreed, he stated that he was ill when the landlord appeared;
5. The tenant has intermittently caused late-night disturbances, most recently when a female guest ran from the rental unit to a waiting car at 3:20 a.m.

Analysis

Section 56(2) of the *Act* sets out the causes for which a tenancy may be ended early. Among them, I find that by repeated non-compliance with the landlords' request to relocate, including the Notice to End Tenancy for landlord use, the tenant has seriously jeopardized the lawful rights of the landlord. I further find that by the kitchen fire, the tenant has caused damage to the landlords' property. By the late night activity and police attention, I find that the tenant has significantly interfered with or disturbed the landlords.

Taken together, I find the tenant's pattern of non-compliance with the landlords' requests and, on the balance of probabilities, illegal activities, constitute sufficient cause to end the tenancy early under section 56 of the *Act*.

Accordingly, I find that the landlords are entitled to an Order of Possession to take effect two days from service of it on the tenant.

Conclusion

The landlords' 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.

January 17, 2010