

## **DECISION**

**Dispute Codes:** ET

### **Introduction**

This application was brought by landlord on February 28, 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 service of the Notice of Hearing, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, I 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 began on January 1, 2011. Rent is \$1,300 per month and the landlord held a security deposit of \$500.

During the hearing, the landlord gave evidence that shortly after the tenancy began in a secondary house on her property, she noted that she had not seen the tenant for some time and that numerous others were coming and going from the rental unit. She contacted the tenant who promised to come to see her to clarify matters, but he did not do so.

In the early morning hours of February 20, 2011, there was a drive-by shooting at the home of her neighbour. On investigating that matter, police concluded that the incident had involved gang activity and that the intended target had actually been occupants of the subject rental unit.

The landlord gave evidence that her named tenant had stated that he had vacated the rental unit sometime earlier and that he would ask the present occupants to vacate by March 1, 2011. The occupants finally left on March 7, 2011.

The landlord therefore seeks an Order of Possession to secure her right to enter the rental unit and to change the locks.

### **Analysis**

Section 56(2)(a)(ii) of the *Act* authorizes a designate of the Director to issue an Order of Possession in circumstances in which, “a tenant or a person permitted on the residential property by the tenant....has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant.”

I find that the tenant and/or persons permitted on the property have seriously jeopardized the safety of the landlord.

Therefore, I find that the landlord is entitled to the Order of Possession. Given that the tenant – as the only person with a lawful interest in the tenancy – has surrendered his right to the rental unit, I find that the Order can take effect at 5 p.m. on March 11, 2011.

## **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 5 p.m. on March 11, 2011.

The landlord remains at liberty to make application for any damage or losses as may be ascertained at the conclusion of the tenancy.

March 11, 2011