

## **DECISION**

**Dispute Codes**      CNC, MNDC, OLC, LRE, LAT

### **Introduction**

I was designated to hear this matter under section 58 of the *Residential Tenancy Act* (the *Act*). This hearing dealt with the tenants' application for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause pursuant to section 47;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- authorization to change the locks to the rental unit pursuant to section 70; and
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70.

The Respondent (the landlord) appeared at the date and time set for the hearing of this matter. The Applicants did not, although I waited until 1:43 p.m. to enable them to connect with this teleconference hearing.

The landlord testified that he handed the male tenant, in the presence of the female tenant, a 1 Month Notice to End Tenancy for Cause (the Notice) on May 13, 2011. He entered into written evidence a copy of that Notice. The landlord identified June 13, 2011 as the effective date to end the tenancy in that Notice. At the hearing, the landlord requested an Order of Possession if the tenants' application for cancellation of the Notice to End Tenancy were dismissed.

### **Background**

Rule 10.1 of the Rules of Procedure provides as follows:

**10.1 Commencement of the hearing** The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

Section 55(1) of the *Act* reads as follows:

**55** (1) *If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of*

*possession of the rental unit to the landlord if, at the time scheduled for the hearing,*

*(a) the landlord makes an oral request for an order of possession, and*

*(b) the director dismisses the tenant's application or upholds the landlord's notice.*

In the landlord's Notice, the landlord identified a number of grounds for ending this tenancy for cause. One of these reasons was the landlord's assertion that the tenants were smoking in the rental unit in contravention of their residential tenancy agreement, a copy of which the landlord entered into written evidence. The landlord also submitted written evidence to support his contention that the tenants were breaching this term of their residential tenancy agreement.

#### Analysis

**In the absence of any evidence or submissions from the applicants, I order the application dismissed without liberty to reapply.**

Based on my decision to dismiss the tenants' application for dispute resolution, I find that this tenancy ends on June 30, 2011, the earliest time that this tenancy could end based on the date of the landlord's service of the Notice to the tenants. The landlord is provided with a formal copy of an Order of Possession effective at one o'clock in the afternoon on June 30, 2011. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

#### Conclusion

I dismiss the tenants' application for dispute resolution without leave to reapply. I issue an Order of Possession in the landlord's favour.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.