

## Decision

**Dispute Codes:** ET / OP

### Introduction

This hearing dealt with the landlord's application for an early end of tenancy and an order of possession. The landlord participated in the hearing and gave affirmed testimony.

On July 4, 2011 the landlord personally served the application for dispute resolution and notice of hearing (the "hearing package") on "GB," the tenant's son. "GB" is "an adult who apparently resides with the tenant." Neither the tenant nor "GB" attended the hearing.

### Issues to be decided

- Whether the landlord is entitled to the above under the Act

### Background and Evidence

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the month-to-month tenancy began on July 1, 2009. Monthly rent is currently \$820.00, and a security deposit of \$400.00 was collected near the start of tenancy.

By way of letter to the landlord dated June 7, 2011, the tenant gave notice of her intent to end the tenancy effective June 30, 2011. The tenant vacated the unit before the end of June 2011, however, her son, "GB" continues to reside there. The landlord's understanding is that "GB" has been an on-and-off again resident in the unit with the tenant. While the landlord testified that "GB" has given verbal assurances of his intent to vacate the unit, he continues to reside there and no rent has been paid for July 2011. Accordingly, the landlord seeks an early end of tenancy and an order of possession.

### Analysis

Section 88 of the Act speaks to **How to give or serve documents generally**. Section 89 of the Act addresses **Special rules for certain documents**, and provides in part as follows:

89(2) An application by a landlord under section 55 [*order of possession for the landlord*], 56 [*application for order ending tenancy early*] or 56.1 [*order of possession: tenancy frustrated*] must be given to the tenant in one of the following ways:

- (c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;

Section 56 of the Act addresses **Application for order ending tenancy early**, and provides in part as follows:

56(1) A landlord may make an application for dispute resolution to request an order

- (a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and
- (b) granting the landlord an order of possession in respect of the rental unit.

(2) The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,

- (a) the tenant or a person permitted on the residential property by the tenant has done any of the following:
  - (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
  - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
- (b) it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 [*landlord's notice: cause*] to take effect.

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the hearing package was properly served on the tenant pursuant to section 89 of the Act, as above.

I further find that “the tenant or a person permitted on the residential property by the tenant” has “significantly interfered” with the landlord, and “seriously jeopardized” the lawful right or interest of the landlord, and that it would be unreasonable or unfair to the landlord to wait for a notice to end tenancy to take effect. Accordingly, I find that the landlord is entitled to an order of possession.

### **Conclusion**

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

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*.

DATE: July 26, 2011

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Residential Tenancy Branch