

DECISION

Dispute Codes: ET

Introduction

This application was brought by landlord on January 9, 2012 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.

As a preliminary matter, the tenant's advocate, an outreach worker under contract with Vancouver Coastal Health, requested an adjournment on the grounds that the tenant was busy with a medical appointment and she had had only four days to prepare a response. I declined to adjourn given the urgency associated with an application for an early end of tenancy and as the tenant's interests were very ably represented.

The landlord was assisted with translation and as an agent by his grandson.

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 approximately two years ago, according to the landlord. Rent is \$720 per month and the landlord holds a security deposit of \$175.

During the hearing, the landlord gave evidence that this application had been made following an incident on January 6, 2012 during which police had attended the rental unit to deal with a disturbance by the tenant. The landlord stated that the police had

been called after the tenant had been screaming and banging the rental unit for some hours.

The landlord stated that the tenant had uttered the threat, "I will fix you," in the presence of police and had disparaged the landlord with profane and insulting language and that he had been doing so on an increasing number of occasions. The landlord stated that police officers had taken him into the rental unit and shown him substantial damage including a broken entry door lock, holes in the walls, a unit in a general state of disarray, and a degree of damage he estimated at \$2,000.

The landlord stated that the tenant's conduct had worsened recently as the tenant has increased his consumption of alcohol.

He stated that he needed to end the tenancy early because he fears further damage to the rental unit and because he has a serious heart condition, and he finds the unpredictable conduct so stressful that, if he cannot have the tenant removed, he will have to leave the rental building himself.

The landlord also alleges that the tenant has brought stolen goods into the rental unit on a number of occasions but offered no proof. The landlord said the tenant had assured him that he would be leaving at the end of January.

The tenant's advocate testified that the tenant had been under her professional guidance as a brain injury worker for a number of years and she felt quite certain that he was not capable of violence toward the landlord. She acknowledged that he was on probation, that he was currently undergoing medical treatment for a liver ailment and would most unlikely be using alcohol. She noted that the tenant suffers from Hepatitis C also.

She stated that she has been trying for some time to find suitable housing for the tenant, hoped to have something confirmed in the near future and asked the landlord for sufficient time to do so. The advocate stated that the tenant suffers from some memory impairment, and may not have understood the consequences of his promise to leave the tenancy at the end of January.

Analysis

Section 56(2)(a) of the *Act* authorizes a designate of the Director to issue an Order of Possession in circumstances in which a tenant has:

- (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;
- (iii) put the landlord's property at significant risk;

I find that the tenant has done so to a degree that warrants an Order of Possession.

While the landlord may - if the tenant's conduct is acceptable, and/or if the tenant's advocate can assure new housing shortly thereafter and to avoid bailiff fees - enforce the Order at a later date, I find that he is entitled to an Order of Possession effective at 1 p.m. on January 31, 2011 as requested.

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 January 31, 2012.

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*.

Dated: January 18, 2012.

Residential Tenancy Branch