

DECISION

Dispute Codes: ET and FF

Introduction

By application of January 20, 2012, the landlord seeks an Order of Possession to end the tenancy early under section 56 of the *Act*. This section permits such applications under circumstances in which 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 matter of note, the landlord had initially applied on January 19, 2012 for an Order of Possession pursuant to a Notice to End Tenancy for unpaid rent dated January 2, 2012, and a Monetary Order for damage to the rental unit. However, as the application was amended to claim an Order of Possession to end the tenancy early under section 56 of the *Act*, this hearing cannot consider anything other than the early end of tenancy because such applications are expedited given the urgency associated with them.

As a matter of note, the landlord has also submitted a Notice to End Tenancy for cause dated January 1, 2012, also superseded by the present application for an early end of the tenancy.

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 November 1, 2001. Rent is \$1,350 per month and while the tenant committed to pay a security deposit of \$675, it was never paid.

During the hearing, the landlord gave evidence that the early end to tenancy was sought on the grounds that the tenant engaged in activities that significantly disturbed other occupants and jeopardized the health, safety and lawful rights of other occupants or the landlord.

The landlord stated that the rental unit is frequented by persons buying or using drugs in the rental unit with the result that he has had to clean up syringes in the stairwell and to confront such persons to ask them to leave the building.

The landlord submitted letters from two other tenants reporting the constant smell of marijuana from the rental unit and frequent attendance by police. One of the letters also referred to being concerned with the numbers of suspicious persons visiting the rental unit. The landlord said there were numerous other verbal complaints over the same issues.

The landlord stated he had been called to the rental unit by police officers on January 19, 2012 and witnessed police officers questioning four person. One of them who claimed to be living with the tenant was arrested.

The landlord further stated that the tenant had caused damage to the common areas of the building including breaking mailboxes and jamming the front and rear entry doors, apparently to accommodate access for his frequent guests.

The landlord stated that because of the activities in the rental unit, two other tenants had expressed their intention to move out because they no longer feel safe in the building.

The landlord gave uncontested evidence that the tenant had given him NSF cheques on two occasions and that the January rent had not been paid. He also submitted a list of public court records showing that the tenant had been before the criminal courts on a number of occasions between 2003 and 2011 for matters including drug, fraud and property offences.

Another tenant of the rental building gave evidence in support of the landlord's application and corroborated the constant and strong odour of marijuana emanating from the rental unit, and at least three visits by police officers.

The tenant stated that it was not he, but his roommate who had jammed the doors open but he had done so when he first moved in and had stopped doing so after he was given a key.

He said the one police attendance had occurred when his roommate had arrived home in a tax and did not have the money to pay the driver and was arrested for that offence. He said on another occasion, he had returned home from a trip and believed his luggage had been stolen, and the police had attended to begin an investigation. On other occasions, he stated that he had called the police as the landlord had turn the power off.

The tenant said he does not use marijuana and believe the odours came from the rental units next door.

Analysis

Section 56(1) of the *Act* authorizes a designate of the Director to issue an Order of Possession in circumstances in which:

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

I find that, on the balance of probabilities, that the conduct of the tenant and his roommate have demonstrated significant interference and jeopardized the health or safety of other occupants, and put the landlord's property at significant risk.

Therefore, I find that the landlord is entitled to the Order of Possession. On pleadings from the tenant, the landlord agreed to an end of tenancy date of January 31, 2012.

I further find that the landlord is entitled to recover the \$50 filing fee for this proceeding from the tenant.

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.

The landlord is also issued with a Monetary Order for \$50, enforceable through the Provincial Court of British Columbia, for service on the tenant for recovery of the filing fee.

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

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 27, 2012.

Residential Tenancy Branch