

## **DECISION**

**Dispute Codes:** CNC

### **Introduction**

This application was brought by the tenant seeking to have set aside a one-month Notice to End Tenancy for cause served on May 31, 2010 and setting an end of tenancy date of June 30, 2010. Causes cited on the notice were significant interference or unreasonable disturbance and serious jeopardy of the health, safety or lawful rights of other tenants or the landlord.

### **Issues to be Decided**

This application requires a decision on whether the Notice to End Tenancy should be set aside or upheld.

### **Background and Evidence**

This tenancy began on July 1, 2006. The landlord is a registered society providing low income and emergency shelter housing.

During the hearing, the landlord gave evidence that the Notice to End Tenancy had been served after a long series of reports of the tenant disturbing others by banging on

the walls of his rental unit and screaming, and numerous failed efforts to resolve matters through consultation.

The landlord submitted into evidence warning letters sent to the tenant dated July 3, 2007, and September 10, 2009, the latter of which referred to the tenant's threats against staff and was accompanied by a Notice to End Tenancy. While that matter went to Hearing on October 29, 2009, the landlord withdrew the notice in the belief that matters had been resolved.

The landlord also submitted internal staff emails dated May 19, 2010 and July 1, 2010 citing continuing instances of banging on walls and screaming and the former noted concern that the staff did not have the resources required to rescue the tenancy.

The tenant concurred that he pounds and kicks the wall in his unit but that it was in response to noises including banging and a humming sound he heard in the building.

The landlord stated that staff, in response to the tenant's complaints, had investigated on a number of occasions, but had been unable to identify the sounds complained of by the tenant.

## **Analysis**

Section 47 of the Act provides that a landlord make service a Notice to End Tenancy in circumstances in which, among others, the tenant has significantly interfered with or disturbed other occupants or the landlord and acted in a manner that jeopardized their lawful rights.

In this matter, I find that the tenant has unreasonably disturbed other occupants and jeopardized their lawful rights to quiet enjoyment.

Therefore, I find that the Notice to End Tenancy of May 31, 2010 is lawful and valid and declined to set it aside.

On hearing that determination, the landlord requested, and I find he is entitled to, an Order of Possession under section 55(1) of the *Act*, effective July 31, 2010.

### **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 July 31, 2010.

July 23, 2010