

## **DECISION**

**Dispute Codes:** ○

### **Introduction**

This application was brought by landlords on December 31, 2011 seeking an Order of Possession in support of a Mutual Agreement to End Tenancy signed by both parties December 30, 2010.

Despite having been served with the Notice of Hearing served on January 6, 2011, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

### **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 55(2)(d) of the *Act* and, if so, the effective date of such order.

### **Background and Evidence**

This tenancy in the lower portion of the landlords' home began on December 1, 2010. Rent was \$575 per month and the landlord held a security deposit of \$200.

During the hearing, the landlord gave evidence that the tenant had vacated the rental unit on January 19, 2011 but requested the Order of Possession in order to secure her right to take possession of the rental unit. She stated that the security deposit had been returned to the tenant.

The Mutual Agreement to End Tenancy set an end of tenancy date of February 1, 2010 or, as written in by the tenant, “unless someone wants to move in early January 15, 2011.” The landlord stated that the tenant had paid no rent for January.

## **Analysis**

Section 55(2)(d) of the *Act* provides that a landlord may request an Order of Possession if the landlord and tenant agree in writing that the tenancy has ended.

Given that the mutual agreement provides two dates and given that the tenant has vacated, I find it in the best interest of both parties that the landlords have early possession and the opportunity to find a new tenant in order to minimize the potential loss.

Therefore, I find that the landlords’ are entitled to an Order of Possession to take effect at 1 p.m. on January 22, 2100.

## **Conclusion**

The landlords’ 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 22, 2011.

The landlords remain at liberty to make application for unpaid rent and any damages as may be ascertained when they regain possession of the rental unit.

January 20, 2010