

DECISION

Dispute Codes: OPC, MND, MNSD, MNDC, FF, CNC

This hearing dealt with a cross applications by the parties. The landlords made an application for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The tenants made an application to dispute the notice to end tenancy.

At the outset of the hearing, the landlords withdrew their application for a monetary order and an order to retain the security deposit.

The tenancy started on November 1, 2008 for a fixed term ending March 1, 2010. On July 24, 2009, the landlords served the tenants with a notice to end tenancy for cause.

The landlord gave the following reasons as cause for ending tenancy.

On February 27, 2009, the landlords received an infraction notice from the property management company for the strata corporation stating that the tenants had a portable hot tub on their patio and that this was in contravention of the strata bylaw. On June 15, 2009, the landlords received another notice of infraction stating that the tenants had installed an air conditioner on their window and that it was also in contravention of the strata bylaw. The landlords had since served the tenants with these notices and requested for them to remove these two items from their unit. But to date, the tenants have not complied with the landlords' request. Furthermore, the tradesman ordered by the property management company to remove the air conditioner was refused entry into the unit by the tenants.

The tenants admitted that they did not obtain permission from the landlords before installing the portable hot tub and the air conditioner. They also did not dispute that these two items have not been removed from the unit. They explained that the hot tub had been there since the inception of the tenancy. They also explained that they did not remove the air conditioner because the unit is very hot and they had requested for the landlords to obtain permission from the strata council to allow them to keep it.

A copy of the tenancy agreement was submitted for the hearing. I note the following in the tenancy agreement: 1) clause 29 states that "The tenant shall not bring on the premises or the residential property any furniture, appliances, or other chattels which can be considered to be liquid filled without the landlord's written consent"; and 2) clause 31 states that "The tenant(s) agree to abide by the provisions of the bylaws and the rules of the Strata Corporation as adopted from time to time". Based on the above, I find that the tenants are in breach of two material terms of the tenancy agreement that were not corrected within a reasonable time after written notice to do so. Accordingly, I also find that the landlords have established grounds to end the tenancy. I therefore dismiss the tenants' application.

Based on the above facts, I find that the landlords are entitled to an order of possession. The tenants must be served with the order of possession. Should the tenants 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.

Dated September 15, 2009.