

DECISION

Dispute Codes: CNC and FF

Introduction

This application was brought by the tenants seeking to have set aside a one-month Notice to End Tenancy for cause served on September 14, 2009 and setting an end of tenancy date of October 31, 2009. The tenants also sought to recover the filing fee for this proceeding.

The Notice to End Tenancy was served by the Strata Corporation under section 138 of the *Strata Property Act* permits the corporation to issue a Notice to End Tenancy when there have been continuing contraventions of a bylaw or rule that imposes on the rights and quiet enjoyment of other residents.

Issue(s) to be decided

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

Background and Evidence

Evidence submitted by the landlord included 13 complaints submitted by three different neighbouring tenants concerning noise and damage to the common area of the rental building and four warning letters to the tenants.

Despite having made application, the tenants did not call in to the number provided to enable their participation in the telephone conference call hearing.

Therefore, the application is dismissed without leave to reapply.

On hearing that determination, the landlord requested an Order of Possession pursuant to section 55(1) of the *Act* which compels the issuance of the Order when a tenant's application to set aside a Notice to End Tenancy is dismissed, or the Notice is upheld.

The landlord noted that, while the Application for Dispute Resolution was brought in the name of one tenant, the Form K which notifies tenants of strata bylaws is signed by two co-tenants. The landlord asked that the Order of Possession name both.

Analysis

I find that the tenants' failure to attend the hearing on their application when the respondent landlord did attend warrants dismissal of the application without leave to reapply.

I further find that the landlord is entitled to the Order of Possession requested under section 55(1) of the *Act* and that the Order should take effect two days from service of it on the tenants.

As I have found that this is a co-tenancy, I find that either tenant may represent both with respect to the tenancy, and therefore, I exercised my discretion under section 64(3)(c) of the *Act* and amend the application and order to name both tenants.

Conclusion

Thus, the landlords' copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, effective two days from service of it on the tenants.