

## **DECISION**

**Dispute Codes**      ET, RPP, CNC, CNR, MNDC, MND, MNR, OPC, OPR, FF

### **Introduction**

This hearing dealt with three Applications for Dispute Resolution filed by the parties.

The Landlord is requesting orders of possession based on an early end to the tenancy, a 10 day Notice to End Tenancy for unpaid rent, and on a one month Notice to End Tenancy for cause, as well as monetary orders for unpaid rent and for damage to the rental unit or property.

The Tenants are requesting an order cancelling the Notices to End Tenancy for unpaid rent or cause, monetary compensation under the Act or tenancy agreement, and for the Landlord to return the Tenants' personal property.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. I note the Tenants submitted some of their evidence late and I have not considered this evidence. I also note that only the evidence relevant to the issues and findings in this matter are described in this Decision.

### **Issues(s) to be Decided**

Does the Agent for the Landlord have the right to represent the Landlord in this matter?

Is the Landlord entitled to an order of possession?

Are the Tenants entitled to have the Notices to End Tenancy cancelled?

Is the Landlord entitled to compensation for rent money?

Are the Tenants entitled to monetary compensation?

### **Background and Evidence**

On March 22, 2010, the Agent for the Landlord was appointed the Committee of the Landlord, by an order pronounced in the Supreme Court of British Columbia. The Agent for the Landlord has submitted a copy of this order. Therefore, on the first issue, I find the Agent has the authority to represent the Landlord in this matter.

The tenancy began approximately 10 years ago. The Tenants have a large number of vehicles, boats and other personal property stored on the property surrounding the rental units. The Tenants have been using a trailer on the property as living accommodation and an office. The Tenants have also converted a house on the property to a storage facility. It is storing many items including car batteries and other potentially dangerous substances.

The Agent for the Landlord had three witnesses testify about the state of the property. The witnesses were a building inspector, a bylaw enforcement officer and a fire chief from the municipality where the rental unit property is located. There were documents sent to the Agent for the Landlord from the witnesses supplied in evidence by the Agent.

The witnesses testified about the house having a hole in the roof, debris everywhere, including car batteries stored in the kitchen, fire marks on the walls, use of candles for lighting, mould growing in the porch, unsafe stairs and dangerous storage of vehicles and boats on the property. The fire chief stated that due to the gas cans, propane tanks and other combustible materials stored there, that it would be unsafe for fire personnel if they ever had to fight a fire in the building.

The Tenants agree they are vacating the property, however, they claim that they should be credited for the remainder of a tenancy agreement which was entered into by the Landlord named in these Applications and his spouse who is an unnamed Landlord in these proceedings. The Landlords and the Tenants signed this agreement in December of 2009 and it was to run for the 2010 calendar year.

The Agent for the Landlord disputes that the Landlords had capacity to enter into this agreement in December of 2009. The Agent has submitted an affidavit from the named Landlord's medical doctor, indicating he did not have capacity to direct his financial affairs as of August 13, 2009. An exhibit to this affidavit also questions the abilities of the unnamed Landlord to manage her financial affairs.

The tenancy agreement has allowed the Tenants to offset rent for the first three months of 2010, by allowing the Tenants to pay some debts of the named Landlord for clearing the property. The Tenants argue they have not been credited with all the rent due, as

they lost use of the property when the Agent for the Landlord had cut off power and water to buildings on the property.

During the course of the hearing, both the Agent for the Landlord and the Tenants made serious allegations about the other party. There was testimony of a restraining order against one of the Tenants from entering the property, and testimony of charges against the Agent for the Landlord for assaulting one of the Tenants. Both parties made many allegations about the other.

Nevertheless, it is important for the parties to understand that these are criminal matters over which I have no authority to make a determination. Likewise I have no authority to vary the restraining order against one of the Tenants to help them remove items from the property, as was requested by one of the Tenants.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I find that the one month Notice to End Tenancy is valid and it should not be cancelled. I find that the Tenants have seriously jeopardized the safety or lawful rights of the Landlord and have caused damage to the property and rental units on it.

I dismiss the Application of the Tenants to cancel the two Notices to End Tenancy.

Based on the above, I grant and issue the Landlord an order of possession effective at **1:00 p.m. June 13, 2010**. This order may be enforced in the Supreme Court of British Columbia.

I further find that both the Landlord and the Tenants have provided insufficient evidence to prove a monetary claim against the other in regard to rent money, and therefore, the monetary claims dealing with rent in the Applications of both parties are dismissed.

As both parties have met with limited success, I do not make any award for the filing fees for the Applications.

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: May 25, 2010.

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Dispute Resolution Officer