

## **DECISION**

Dispute Codes      OPC  
                                 CNC

### **Introduction**

This hearing dealt with cross Applications for Dispute Resolution filed by the Applicant and the Tenant.

The Applicant filed seeking an Order of Possession for Cause.

The Tenant filed seeking an Order to cancel a 1 Month Notice to End Tenancy issued for Cause.

The Landlord's Agent, the Applicant, and the Tenant appeared, were provided the opportunity to present their evidence orally, in writing, and in documentary form.

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

Is the Applicant entitled to an Order of Possession for Cause pursuant to section 55 of the *Residential Tenancy Act*?

Is the Tenant entitled to an Order to cancel a 1 Month Notice to End Tenancy for Cause pursuant to section 47 of the *Residential Tenancy Act*?

### **Background and Evidence**

The Landlord's Agent testified that a 1 Month Notice to End Tenancy was issued on April 7, 2010, on behalf of the Landlords and was served to the co-tenants by placing it under the door of the rental unit on April 7, 2010. She advised that one of the co-tenants vacated the rental unit prior to April 30, 2010, and as of May 11, 2010 she reinstated the tenancy with the remaining Tenant. The Agent confirmed it is the

Landlords' wish to have the unit occupied by a renter and that they will abide by my decision issued here today.

The Tenant stated that he has not received a notice to end tenancy from anyone since re-establishing his tenancy agreement on May 11, 2010.

The Applicant confirmed that he is the Manager of the Strata Council and that he issued the co-tenants a 1 Month Notice to End Tenancy on April 7, 2010. The Applicant provided no further testimony after I stated that I did not have evidence before me to support the Applicant had permission from the Landlords to act as their agents.

### Analysis

All of the testimony and documentary evidence was carefully considered.

The evidence supports the Landlords, by way of their Agent, have re-instated the tenancy agreement with the applicant Tenant as of May 11, 2010. Therefore the 1 Month Notice to End Tenancy issued April 7, 2010 is no longer valid and the Tenant's application is upheld.

I note while the Strata Property Act gives a Strata Council authority to issue an eviction notice, there is no provision under the *Residential Tenancy Act* that allows a Strata Council to act independently of a landlord(s). A Strata Council would need to be appointed as an Agent for a landlord if they wished to issue a notice to end tenancy and apply for an Order of Possession on behalf of said landlord. As there is no evidence to support the Strata Council acted as Agent for the Landlords, the 1 Month Notice to End Tenancy issued April 7, 2010, is void. Therefore I dismiss the application filed by the Strata Council.

### Conclusion

The 1 Month Notice to End Tenancy issued April 7, 2010, by the Landlords is **HEREBY CANCELLED** and of no force or effect.

The 1 Month Notice to End Tenancy issued April 7, 2010, by the Strata Council is **HEREBY CANCELLED** and of no force or effect.

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: July 19, 2010.

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Dispute Resolution Officer