



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Notice to End Tenancy was sufficiently served on the Tenant by posting on or about August 31, 2013. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the respondent on September 17, 2013.. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issue to be decided is whether the tenant is entitled to an order cancelling the Notice to End Tenancy dated August 28, 2013?

Background and Evidence

The tenant moved into the rental unit approximately 2 years ago. The rent is \$800 per month payable on the first day of each month. The tenant paid a security deposit of \$400 at the start of the tenancy.

The Strata Corporation has served a one month Notice to End Tenancy on the Tenant alleging cause. The landlord was not present at the hearing. However, it appears that the landlord does not support the Strata Corporation.

The Strata Corporation alleges that the tenant's girlfriend/roommate has significantly disturbed other residents in the strata property. The Strata Corporation submits that the Residential Tenancy Act has jurisdiction to hear this application under section 138 of the Strata Property Act. The applicant disputes that his girlfriend/roommate has caused the problems alleged although he does acknowledge she caused some disturbances. He testified she suffers from a disability. He also acknowledged that from time to time she suffered from substance abuse problems. However, he testified she is no longer living in the rental property and has been gone for 2 months. He produced a tenancy agreement that shows he is the sole tenant (the previous tenancy agreements had her as a co-tenant). He testified there have been no disturbances since she vacated the rental unit.

Analysis

The parties reached a settlement. I determined it was not necessary or appropriate for me to make a determination as to whether the Residential Tenancy Branch has jurisdiction to consider whether a strata corporation has the jurisdiction to obtain an Order for Possession through the Residential Tenancy Branch.

Settlement:

The parties reached a settlement as follows:

- a. The Strata Corporation withdraws the Notice to End Tenancy dated August 28, 2013 on a without prejudice basis.
- b. The Strata Corporation retains the right that should there be any further disturbances by the tenant or person permitted on the property by the tenant the Strata Corporation shall have the right to serve a new one month Notice to End Tenancy based on the evidence and grounds set out in the August 28, 2013

- c. The Strata Corporation has the right take other steps under the Strata Property Act to protect the interest of other tenants and strata owners.
- d. The parties acknowledge that should the Strata Corporation serve a new one month Notice, the issue of whether the Strata Corporation can use the Residential Tenancy Branch to enforce the Notice would be determined by an arbitrator at that time.

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: October 17, 2013

Residential Tenancy Branch