



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Strata Corporation BCS 2854
Stratatech Consulting Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, OPC, FF

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The Tenant applied for:

1. An Order cancelling a Notice to End Tenancy – Section 47.

The Landlord applied for:

1. An Order of Possession - Section 55; and
2. An Order to recover the filing fee for this application - Section 72.

Preliminary Matters

The Tenant did not participate in the hearing to pursue its own application. It is noted that the Tenant named a strata corporation as the Landlord and provided a copy of a one month notice to end tenancy issued by the strata corporation to a “John Doe” and a “Jane Doe”. As the Tenant did not appear I dismiss the Tenant’s application.

The Landlord’s application names a consulting company as the Landlord. The Agent appearing at the Hearing indicated that he was appearing as an agent for this company. No copy of a written tenancy agreement was provided, no agency agreement was provided and the Agent did not identify the name of the Landlord as provided under a tenancy agreement. The Agent indicated that the owner of the unit was assisting the Tenant with the move-out and had entered into a mutual agreement with the Tenant to end the tenancy on July 31, 2014. The Agent stated that the “John Doe” notice to end

tenancy was issued in error and a new one was served on the Tenant. The Agent had not provided a copy of this new notice to end tenancy for the hearing and indicated that the Notice was issued by the consulting company named in the application. On this basis the Agent was given opportunity to remit such a copy to the Residential Tenancy Branch immediately following the hearing and it was indicated that pending receipt of the copy of the notice an order of possession would be provided. At the hearing the Agent argued that under the Strata Property Act a strata corporation may evict a tenant.

Section 6 of the Act provides that the rights, obligations and prohibitions established under this Act are enforceable between a landlord and tenant under a tenancy agreement. In section 1 of the *Residential Tenancy Act* "landlord" is defined as follows:

"landlord", in relation to a rental unit, includes any of the following:

- (a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,
 - (i) permits occupation of the rental unit under a tenancy agreement, or
 - (ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;
- (b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);
- (c) a person, other than a tenant occupying the rental unit, who
 - (i) is entitled to possession of the rental unit, and
 - (ii) exercises any of the rights of a landlord under a tenancy agreement or this Act in relation to the rental unit;
- (d) a former landlord, when the context requires this;

There is no consequential amendment to the *Residential Tenancy Act* to include a strata corporation in the definition of “landlord” and there is no reference in the *Residential Tenancy Act* to the provisions of the *Strata Property Act*. Upon review of the second notice to end tenancy provided after the hearing it is noted that this Notice was issued by the Strata and the Agent and not the owner of the unit. As a result, I am unable to find that the Notice has been validly issued by the landlord as defined under the Act. Further, it is unknown whether the consulting company named as the Landlord in the application has any agreement to act for the owner of the rental unit. As a result I dismiss the application of the Landlord.

CONCLUSION

Both applications are dismissed.

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: August 1, 2014

Residential Tenancy Branch

