



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VILLAGE GREEN APARTMENTS AND TOWNHOMES/PACIFIC COVE
PROPERTIES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, AS, OLC, O

Introduction and Preliminary Matter

This hearing convened as a result of an Application for Dispute Resolution filed July 29, 2016 wherein the Applicant requested the following relief:

- to cancel a Notice to End Tenancy for Cause;
- to allow the Tenant to assign or sublet because the Landlord has unreasonable withheld consent; and
- an Order that the Landlord comply with the *Residential Tenancy Act*.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions.

At the outset of the hearing, the Landlord's property Manager, D.B. stated that the Applicant was not a tenant of the rental unit and that no residential tenancy agreement existed. D.B. further testified that the Applicant was a former tenant in a different rental unit in another building in the same complex but was evicted by Decision and Order made March 3, 2016. A copy of the Order of Possession was provided in evidence by the Landlord.

D.B. testified that after being evicted the Applicant moved into the subject rental unit with another renter, S.D. D.B. further testified that the Landlord did not agree to the Applicant moving into S.D.'s rental unit, did not enter into a tenancy agreement with the Applicant and that in any case, S.D.'s tenancy ended July 31, 2016. A letter signed by S.D. dated July 31, 2016 confirms S.D. handed over possession of the rental unit on July 31, 2016.

The Applicant confirmed he did not have a tenancy agreement with the Landlord but claimed that he was a subtenant of the Tenant, S.D. He further testified that he believed S.D. was out of town on holidays and was later informed S.D. had moved out. He stated that he attempted to pay rent, but the Landlord refused to receive this payment.

Introduced in evidence was a letter from the Landlord to S.D. dated May 19, 2016 wherein the Landlord informed S.D. that his application for a new tenant in the subject rental unit was

denied; notably, the “new tenant” is identified in the letter as S.S., the Applicant in the within action.

Analysis and Conclusion

The parties agreed that the Applicant and Landlord did not enter into a new tenancy agreement after the Tenant was evicted from a different unit in March of 2016.

The Applicant claimed he was a subtenant of the Tenant, S.D. who formerly occupied the rental unit. The tenancy agreement between S.D. and the Landlord was provided in evidence and pursuant to clause 13 of that agreement, tenants must seek permission from the Landlord for any additional occupants. Evidence submitted by the Landlord confirms S.D.’s request for permission for the Applicant to reside in the rental unit was denied.

Under section 34 of the *Residential Tenancy Act*, a tenant must not assign a tenancy agreement unless the landlord consents in writing. There was no evidence to suggest S.D. requested the Landlord’s consent to assign his tenancy as contemplated in section 34.

In any case, the evidence establishes that S.D. ended his tenancy as of July 31, 2016. As such, even in the event the Applicant was a subtenant of S.D., any rights he may have had would cease at the end of the main tenancy for S.D., which ended on July 31, 2016.

As the Landlord and the Applicant have not entered into a tenancy agreement with respect to the subject rental unit, there is no tenancy. Accordingly, I decline jurisdiction with respect to this matter.

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: September 20, 2016

Residential Tenancy Branch