Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDCT, LRE, FFT

Preliminary Matters

This hearing was originally convened to address an Application for Dispute Resolution (an "Application") filed by the applicants C.T. and D.C.; however, at the outset of the hearing, their agent, R.G., identified that he is the agent for several applicants, all of whom reside in the same building, who have filed similar or identical Applications against the Respondent. R.G. stated that all three Applications have been set for different hearing dates and times and requested that the Applications be joined so that they can be heard and decided together in this hearing.

The agents for the Respondent agreed that there are three separate hearings scheduled between the Respondent and the occupants of three separate rental units within a single building, and that the Applications all relate to the same facts and matters. As a result, they also requested that the matters be joined and heard together in this hearing.

Rule 2.10 of the Residential Tenancy Branch Rules of Procedure (the "Rules of Procedure") states that Applications for Dispute Resolution may be joined and heard at the same hearing so that the dispute resolution process will be fair, efficient and consistent. It also states that in considering whether to join applications, the Branch will consider whether the applications pertain to the same residential property; whether all applications name the same landlord; whether the remedies sought in each application are similar; or whether it appears that the arbitrator will have to consider the same facts and make the same or similar findings of fact or law in resolving each application.

At the request of the parties, I reviewed the three Applications in question and I determined that R.G. is authorized to act on behalf of the applicants in all three matters (the "Applicants") and that T.L. and O.Z. are authorized to act on behalf of the Respondent in the Applications. As a result, the R.G. will therefore be referred to as the Agent for the Applicants and T.L. and O.Z. will be referred to as the Agents for the respondent throughout this decision. I also determined that the Applications relate to the same multi-unit residential building, name the same Respondent, contain much of the

same documentary evidence, and seek the same or similar remedies. As a result, I ordered that the Applications be joined and heard together in this hearing as the same facts would need to be considered and the same or similar findings of fact and law made in resolving each Application.

Introduction, Background and Evidence, and Analysis

As a result of the above, this hearing dealt with three Applications filed by three different Applicants or groups of Applicants under the *Residential Tenancy Act* (the "*Act*"), each seeking cancellation of a One Month Notice to End Tenancy for Cause (a "One Month Notice") served on them on behalf of the Respondent, and a Monetary Order for money owed or compensation for damage or loss under the *Act*, regulation, or tenancy agreement and recovery of the filing fee. The Applicants M.J. and A.J. also sought an order restricting or setting conditions on the Landlord's right to enter the rental unit the Agent for the Applicants withdrew this claim.

The hearing was convened by telephone conference call and was attended by the Agent for the Applicants, the owner of two of the rental units, W.G., the Applicants C.T. and A.M., and two Agents for the Respondent. The parties all agreed that the rental units are located in a multi-unit strata building where the units are individually owned, that the Respondent is the strata corporation, and that the strata corporation is not the legal owner of the units which are the subject of this dispute. The Agent for the Tenants argued that the Respondent had no right to serve the Notices to End Tenancy as the strata corporation does not own the rental units and is not authorized by the owners to act on their behalf. Further to this, the Agent for the Applicants stated that there is an ongoing legal action regarding who the members of the strata council are and whether or not the Agents for the Respondent are actually authorized to act on behalf of the Respondent.

The Agents for the Respondent testified that they are the president and vice president of the strata council and therefore authorized to act on behalf of the strata corporation. The also agreed that the Respondent did not enter into tenancy agreements with the Applicants and is not the legal owner of the rental units. However, the Agents for the Respondent argued that the Respondent may have an ownership interest in the rental units which are the subject of this dispute. During their testimony the parties also disclosed that this matter is before the BC Supreme Court for resolution.

Based on the above, I find that I must first determine whether I have the jurisdiction to hear these matters under the *Act* prior to considering the merits of the Applications

themselves. Section 1 of the *Act* defines a tenancy agreement as an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy a rental unit. Section 1 of the *Act* also defines a landlord 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;

Policy Guideline # 27 states that the Legislation does not confer upon the Branch the authority to hear all disputes regarding every type of relationship between two or more parties and that the Branch only has the jurisdiction conferred by the Legislation over landlords, tenants and in certain instances, strata corporations. Further to this, Policy Guideline #27 states that if a dispute is linked substantially to a Supreme Court action then the Branch may decline jurisdiction.

Based on the above, and in consideration of the testimony and documentary evidence provided by the parties, I am not satisfied that the Respondent is a landlord under the *Act*. Although the Agents for the Respondent testified that the Respondent *may* have an ownership interest in the properties, only the BC Supreme Court has the jurisdiction to decide matters in relation to an ownership interest in property. In any event, these matters also appear to be linked substantially to a Supreme Court action. As a result, I decline to hear these matters for lack of jurisdiction and I encourage the parties to seek independent legal advice.

As the Applicants were not successful in their Applications, I decline to grant them recovery of their filing fees.

Conclusion

I decline to hear these matters for lack of jurisdiction and the Applications are therefore 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: May 22, 2018

Residential Tenancy Branch