



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VALHALLA VACATION OWNERS
CORP and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNL, OLC, PSF, AAT, FF

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act*. The tenant applied to cancel a notice to end tenancy for landlord's use of property and for an order directing the landlord to comply with the *Act*, allow the tenant access to the rental unit and provide services or facilities to the tenant. The tenant also applied to recover the filing fee.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other. Both parties gave affirmed testimony.

At the outset of the hearing, the tenant raised the issue of the jurisdiction. The tenant stated that based on the terms of the agreement between the parties, this matter does not fall under the jurisdiction of the *Residential Tenancy Act*,

Issue to be Decided

Does the *Residential Tenancy Act* apply to the parties? Do I have jurisdiction to resolve this dispute? If the *Residential Tenancy Act* applies, is the landlord entitled to an order of possession? Is the tenant entitled to the remedies he has applied for?

Background and Evidence

The tenancy started on December 31, 2015. A copy of the agreement was filed into evidence. There is no monthly rent. The tenant has the use of the rental unit for a fixed week each year.

The tenant could not recall if he ever occupied the unit but stated that he trades the usage of the unit for “points”. The tenant agreed that the unit is used primarily as a vacation rental.

The landlord stated that the unit does not fall under the umbrella of short term rentals and the tenant has subleased the unit from the owner. The ownership has now changed hands and the new owners want to use the one-week allotment for their own vacation.

On January 03, 2023, the landlord served the tenant with a two month notice to end tenancy for landlord’s use of property. The tenant disputed the notice in a timely manner.

Analysis

A term of the agreement between the two parties states:

The sub-lessee shall use the rental property (“unit”) for short-term vacation residential purposes.

The tenant confirmed that he could not recall occupying the rental unit and also agreed that he traded his one week allotment of the use of the unit, for other benefits.

Section 4 of the *Residential Tenancy Act* addresses **What this Act does not apply to**, and provides in part as follows:

4 This Act does not apply to

(a) living accommodation occupied as vacation or travel accommodation.

Following careful consideration of the full circumstances of this dispute, I find that the rental unit at issue is occupied “as vacation or travel accommodation.”

Therefore, I find that section 4 (a) applies to this rental arrangement and accordingly, the *Act* does not apply. Since I find that the *Act* does not apply, I decline to proceed due to a lack of jurisdiction.

The tenant is unsuccessful in his application and therefore must bear the cost of filing his application.

Conclusion

As the circumstances of this dispute fall outside the jurisdiction of the *Act*, the application is hereby dismissed in its entirety, with leave to apply in another court.

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: March 02, 2023

Residential Tenancy Branch