



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WEST COAST RAILWAY ASSOCIATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, FFT

Introduction

This hearing was convened by way of conference call concerning an application made by the tenants seeking an order cancelling a notice to end the tenancy and to recover the filing fee from the landlord for the cost of the application.

Both tenants attended the hearing with an Advocate. An agent for the landlord also attended, accompanied by Legal Counsel.

The landlord's agent and one of the tenants gave affirmed testimony and were given the opportunity to question each other and to give submissions.

At the commencement of the hearing, Legal Counsel for the landlord submitted that there is no standard tenancy agreement, and there is not a standard rental unit where a tenancy agreement exists. Therefore, it is unclear whether or not the Residential Tenancy Branch has jurisdiction. One of the tenants submitted that there is a tenancy, even though a written tenancy agreement does not exist, which the landlord refuses to acknowledge.

Issue(s) to be Decided

- Have the tenants established that the *Residential Tenancy Act* applies to this dispute?
- Has the landlord established that the One Month Notice to End Tenancy For Cause or End of Employment was issued in accordance with the *Residential Tenancy Act*?

Background and Evidence

The landlord's agent testified that on or about September 29, 2023 the tenants were served with a One Month Notice to End Tenancy For Cause or End of Employment by taping it to the door of the tenant's unit. A copy has been provided for this hearing and it is dated September 28, 2023 and contains an effective date of vacancy of October 31, 2023. The reasons for issuing it state:

- Tenant or a person permitted on the property by the tenant has:
 - significantly interfered with or unreasonably disturbed another occupant or the landlord;
 - seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
 - put the landlord's property at significant risk;
- Tenant's rental unit/site is provided by the employer to the employee to occupy during the term of employment and employment has ended;
- Rental unit/site must be vacated to comply with a government order.

The situation has been very stressful and causing anxiety to the landlord, whose office is next door. The landlord's insurance provider will not cover a permanent dwelling and the landlord asked the tenants to leave.

The tenants' employment with the landlord has ended, and the tenants have sued the landlord in Small Claims Court, having served the landlord with a Notice of Claim in May, 2023. A copy has been provided for this hearing, wherein the tenants claim wrongful dismissal damages as well as punitive damages and aggravated damages. The tenants went on stress leave during the first week of January, 2023 and have not returned. The landlord could not leave the position open. The tenants were not dismissed or fired, but have still not returned.

The tenant testified that this month-to-month tenancy began on August 24, 2020. No rent is payable, but the tenants provide caretaker services in exchange for free rent, and a verbal agreement, confirmed in a text message dated July 18, 2020 has been provided for this hearing. The tenants have been living there since the summer of 2020 to provide security and easy access to staff and visitors. A 2-year employment agreement was signed commencing on April 11, 2022. The tenants resided in a caboose, then the arrangement was that the tenants would move out of the caboose and into a suite so that the caboose could be used by volunteers. The tenants moved into the suite on October 9, 2022.

It is not clear whether the tenants have been formally dismissed, but were served with a letter.

Analysis

The *Residential Tenancy Act* specifies that a tenancy agreement exists even if it is not in writing. However, the *Act* also states that every tenancy agreement must contain the standard terms.

In this case, there is no dispute that the tenants do not pay rent, but their services are in exchange for rent. There is absolutely no evidence before me what the rental amount might be if the notice to end the tenancy is cancelled. The amount of rent payable is a standard term, and there is no amount of rent payable.

Therefore, I decline jurisdiction in this dispute.

Conclusion

For the reasons set out above, I decline jurisdiction with respect to this dispute.

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: November 07, 2023

Residential Tenancy Branch