



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNC

Introduction

This hearing was convened by way of conference call concerning an application made by the tenants for more time to dispute a notice to end the tenancy and for an order cancelling a notice to end the tenancy for cause.

The landlords and the tenants attended the hearing, however none of the parties gave affirmed testimony.

The landlords advised that the landlords have already been successful in obtaining an Order of Possession of the rental unit, and orally provided a file number associated with the hearing that resulted in that Decision and Order.

The landlords are paying property taxes on 2 units on the property, however the landlords have been ordered to convert the rental building to a single family dwelling and lawyers for the City have warned the landlords that failure to remove all tenants from the property will result in fines levied against the landlords. Tenants in the lower level of the rental home are moving out, leaving it a single family dwelling on the property.

The landlords also advised that the Arbitrator at the previous hearing did not hear the tenant and made the Decision to grant the Order of Possession based on the tenants' failure to dispute the 1 Month Notice to End Tenancy for Cause, a copy of which has been provided, within 10 days. However, the hearing of the landlords was held on October 21, 2015 and the tenants filed this application for dispute resolution seeking more time to dispute the notice and seeking to cancel the notice on August 26, 2015, prior to the October 21, 2015 hearing.

The landlord also advised that counsel for the City warned that having applied for dispute resolution to obtain an Order of Possession rather than applying directly to the

Supreme Court to obtain a Writ of Possession was a delay in the process, which may put the landlords at risk of contempt.

I explained to the parties the legal principle of *res judicata* which is a doctrine that prevents rehearing of claims and issues arising from the same cause of action between the same parties, after a final judgment was previously issued on the merits of the case. I reviewed the previous Decision during the conference call with the parties present to ensure that I did not make a finding on a matter that had already been heard and decided upon. The Decision and Order are dated October 21, 2015 and is based on documentary evidence, being Orders of the Supreme Court of British Columbia dated July 30, 2015 and July 31, 2015 which require, in part that the landlords to convert the rental house into a single family dwelling and remove all padlocks on bedroom doors. The parties agree that all padlocks have been removed.

The tenants feel they are pawns in a dispute and will be left homeless even though the landlords have complied by removing the secondary suite.

The parties were advised to seek legal advice.

Because the Decision and Order of the Arbitrator dated October 21, 2015 are legal, binding and enforceable by law, and because they relate to the 1 Month Notice to End Tenancy for Cause that is the subject of this application, the tenants' application must be dismissed.

Conclusion

For the reasons set out above, the tenants' application is hereby 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: October 29, 2015

Residential Tenancy Branch

