



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

CNL, MNDC, FF

Introduction

This hearing was scheduled in response to the Tenant's Application for Dispute Resolution, in which the Tenant has made application to set aside a Notice to End Tenancy for Cause; to set aside a Notice to End Tenancy for Landlord's Use of Property, and for a monetary Order for money owed or compensation for damage or loss.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

Issue(s) to be Decided

The issues to be decided are whether the Notice to End Tenancy for Cause should be set aside; whether the Notice to End Tenancy for Landlord's Use of Property should be set aside; whether the Tenant is entitled to the equivalent of one month's free rent as compensation for the Landlord ending this tenancy for his own use; and whether the Landlord is entitled to compensation for moving costs.

Background and Evidence

The Landlord and the Tenant agree that this tenancy began in 2005 and that the Tenant is required to pay monthly rent of \$786.00.

The Landlord and the Tenant agree that the Landlord served the Tenant with a Notice to End Tenancy for a Landlord's Use of Property, which required the Tenant to vacate the rental unit on June 30, 2009. The reason for ending the tenancy that was stated on the Notice, was that the rental unit will be occupied by the landlord or a close family member of the landlord. The Landlord made a notation on the Notice that her sister will be moving into the rental unit.

The Landlord and the Tenant were informed during the hearing that section 49(4) of the Act permits a landlord to end a tenancy if the landlord or a close family member of the

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landlord, intends in good faith to occupy the rental unit. They were also informed that section 49(1) of the Act defines a close family member, for the purposes of section 49 of the Act, as a father, mother, spouse or child of the landlord or the landlord's spouse.

As the Act does not include a sibling in the definition of a close family member, the Landlord and the Tenant were informed during the hearing that the Landlord does not have the right to end this tenancy under section 49(4) for the purposes of having a sister or a brother move into the rental unit. The parties were informed at the hearing that the Notice to End Tenancy for Landlord's Use of Property was being set aside.

The Landlord and the Tenant were also informed during the hearing that because the Notice to End Tenancy for Landlord's Use of Property had been set aside, the Tenant is not entitled to the compensation, in the equivalent of one month's rent, for moving as a result of that Notice. Tenants are only entitled to receive the equivalent of one month's rent if they vacate the rental unit as a result of a valid Notice to End Tenancy that is served pursuant to section 49 of the *Act*.

The Landlord and the Tenant agree that the Landlord served the Tenant with a Notice to End Tenancy for Cause on June 03, 2009, which required the Tenant to vacate the rental unit on July 31, 2009. The reason for ending the tenancy that was stated on the Notice, was that Tenant or a person permitted on the property by the Tenant has seriously jeopardized the health or safety or lawful right of another occupant or the Landlord; that the Tenant has engaged in illegal activity that has, or is likely to, jeopardize a lawful right or interest of another occupant or the Landlord; and that the Tenant has caused extraordinary damage to the rental unit or property.

After considerable discussion, the Landlord and the Tenant agreed that neither party wished the tenancy to continue. They mutually agreed to end this tenancy on August 31, 2009 at 1:00 p.m.

At the hearing the Landlord and the Tenant agreed that the Landlord would conduct an inspection of the rental unit, in the absence of the Landlord's brother, on June 27, 2009 at 1:00 p.m. The parties both agreed that there would be minimal contact between the parties for the duration of the tenancy and that they will treat each other respectfully when contact is necessary.

The Tenant was seeking compensation for moving costs because the Landlord was seeking to end the tenancy. As the tenancy will be ending by mutual consent, no moving costs will be awarded.



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Conclusion

On the basis of the mutual agreement to end this tenancy, an Order of Possession is being issued to the Landlord. This Order of Possession requires the Tenant to vacate the rental unit by 1:00 p.m. on August 31, 2009.

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: June 22, 2009.

Dispute Resolution Officer