

DECISION AND REASONS

Dispute Codes:

CNL

Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenant has made application to cancel a Notice to End Tenancy for landlord's use of the property.

Both parties were present 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 oral evidence, to cross-examine the other party, and to make submissions during the hearing.

Preliminary Matter

The tenant application for dispute resolution indicated that the tenant was applying under "other" reasons. During the hearing the tenant confirmed that the application is made solely in relation to cancellation of a Notice to End Tenancy.

Issue(s) to be Decided

The issue to be decided is whether the Notice to End Tenancy for Landlord's Use of Property, served pursuant to section 47 of the *Residential Tenancy Act (Act)*, should be set aside.

Background and Evidence

The Landlord and the Tenant agree that a 2 Month Notice for Landlord's use of the Property was served on the Tenant on April 18, 2009 indicating that the Tenant was required to vacate the rental unit on June 21, 2009. The reasons stated for the Notice to End Tenancy were that the landlord was planning on converting the rental unit for use by a caretaker, manager or superintendent of the property and that the rental unit will be occupied by the landlord or landlord's spouse or close family member.

The tenant testified that the landlord's, who live in the upstairs unit of the house, are selling the home. The landlord's son testified that he is moving from California back to Vancouver so that he may reside in the basement rental suite and provide care to his elderly mother who lives upstairs. The landlord's son testified that he will be residing in the rental unit by the effective date of the Notice to End Tenancy. The landlord testified that three months ago a realtor had looked at the property but that a decision was made not to list the property for sale.

The female landlord testified that she is expecting her son to return to Canada to reside in the basement apartment so that he may provide her care.

Analysis

After considering all of the written and oral evidence submitted at this hearing, I find that the landlord does intend to reside in the basement rental unit in order to provide care to his elderly mother who lives upstairs. I base this finding on the testimony of the female landlord and her son, that the female landlord does require the support of her son.

Section 53 of the Act determines that an effective date of a notice is earlier than the date permitted, that date may be changed; therefore the effective date of the Notice to End Tenancy issued on April 18, 2009 is June 30, 2009.

I have determined that the Notice to End Tenancy issued on April 18, 2009 is full force and effect.

The landlord did not request an Order of possession.

Conclusion

I have determined that the landlord has satisfied the legislative requirements to end a tenancy for landlord's use of the property; I am dismissing the Tenant's application to set aside the 2 Month Notice to End Tenancy.

Dated June 02, 2009.

Dispute Resolution Officer