



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNL, CNQ

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution to cancel a Notice to End Tenancy.

The hearing was conducted via teleconference and the tenant attended only. The tenant stated at the onset of the hearing that the landlord had confirmed by email that he would not be attending the hearing.

The tenant's application included a request to cancel a Notice To End Tenancy Because the Tenant Does Not Qualify for Subsidized Rental Unit. The tenant indicated he had checked that on the application as it was part of the title of the form that was issued to him to end the tenancy. I noted that is not applicable to this hearing and have amended the application.

Issues(s) to be Decided

The issue to be decided is if the tenant is entitled to cancel a 2 Month Notice to End Tenancy for Landlord's Use of Property, pursuant Section 49 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenant submitted the following documents into evidence:

- A copy of a letter from the tenant summarizing the issues of this dispute;
- A copy of an email from the landlord to the tenants dated December 29, 2009 with an attached Notice to End Tenancy;
- A copy of the tenants' response to the landlord dated December 31, 2009 regarding the Notice to End Tenancy;
- A copy of a tenancy agreement with addendums signed by the parties on September 2, 2009 for a 10 month fixed term tenancy beginning on November 1, 2009 with a monthly rent of \$1,600.00 due on the 1st of the month with no security deposit paid; and
- A copy of a 2 Month Notice to End Tenancy for Landlord's Use of Property dated December 29, 2009 with an effective vacancy date of February 28, 2010, citing

the rental unit will be occupied by the landlord or the landlord's spouse or a close family member of the landlord or the landlord's spouse.

Analysis

Section 49 of the *Act* states a landlord may end a tenancy for personal use by giving notice to end the tenancy effective on a date that must be if the tenancy agreement is a fixed term tenancy agreement, not earlier than the date specified as the end of the tenancy.

As the tenancy agreement submitted states the fixed term of this tenancy ends on August 31, 2010 and the 2 Month Notice to End Tenancy for Landlord's Use of Property states the effective vacancy date is February 28, 2010, I find the Notice to End Tenancy is of no effect.

Conclusion

I grant the tenant's application to disregard the 2 Month Notice to End Tenancy for Landlord's Use of Property dated December 29, 2009. I find the tenancy to be in full force and effect.

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: February 08, 2010.

Dispute Resolution Officer