



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNL, FF

Introduction

This hearing dealt with an application by the tenants for an order setting aside notices to end their tenancy. All parties were represented at the hearing.

Issue to be Decided

Should the notices to end tenancy be set aside?

Background and Evidence

The parties agreed that on or about May 28 the tenants were each served with a 2 month notice to end tenancy (the “Notices”) which alleged that the landlord or a close family member intended to occupy the rental units.

The landlord testified that he and his two adult sons intend to move to the city in which the rental units are situated and each will occupy one unit.

The tenants testified that approximately one year ago, the landlord made application for an order permitting him to raise the rent on the three units beyond what is permitted under the Act. The landlord’s application was unsuccessful and the tenants theorize that the landlord is not acting in good faith, but merely attempting to obtain vacant possession by whatever means necessary.

Analysis

The landlord bears the burden of proving on the balance of probabilities that he and his close family members intend to occupy the rental units. The landlord testified that he and his sons would be occupying the rental units, but provided no corroborating evidence. The landlord currently lives some 1,300 kilometres away from the rental units but provided no evidence as to the relocation of his job or the sale of his current residence or the ending of his tenancy if he rents his current residence. Further, the landlord's sons did not testify on their own behalf nor were sworn affidavits provided. I find that the landlord has not met his burden of proving that he and his sons intend to occupy the rental units. It is unnecessary to address the tenants' challenge of the landlord's good faith as I have found that the landlord has not proven his intention.

Conclusion

I order that the Notices be set aside and of no force or effect. As a result, the tenancies will continue.

The tenants are entitled to recover the filing fees paid to bring their applications. The tenants in unit 1807 may deduct \$50.00 and the tenants in units 1721 and 1723 may deduct \$25.00 each from future rent owed to the landlord.

Dated: August 05, 2010

Dispute Resolution Officer