



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNL, FF

Introduction

This matter dealt with an application by the tenant to cancel a Notice to End Tenancy for the landlords' use of the property, and to recover the filing fee for this application.

Service of the hearing documents was done in accordance with section 89 of the *Act*, and were sent by registered mail to the landlord on October 10, 2010.

Both parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

Issues(s) to be Decided

- Is the tenant entitled to have the Two Month Notice to End Tenancy cancelled?

Background and Evidence

This month to month tenancy started on June 01, 2010. The tenant pays a monthly rent of \$725.00.

The tenant seeks to cancel the Two Month Notice to End Tenancy which he received on September 30, 2010. The reason given on this notice is that the landlord has all the

Residential Tenancy Branch
Ministry of Housing and Social Development

necessary permits and approvals required by law to demolish the rental unit or repair the rental unit in a manner that requires the rental unit to be vacant.

The landlord states he was given approval by the City to sub-divide the property and demolish the building. The landlord states he now has written confirmation of this approval. The landlord has provided no documentary evidence.

The tenant declares that on October 04, 2010 he contacted both the permit and subdivision departments at City Hall and was told that the landlord had not been granted any permits. He claims that on October 18, 2010 he again went to City Hall and was told that the landlord had still not received any permits from the City.

The tenant states that he contacted the City again today and was told no permits had yet been granted to the landlord.

Neither Party has provided a copy of the Two Month Notice. I gave both parties opportunity to send me a fax copy of this Notice after this hearing.

I received a fax copy of the Notice from the tenant.

Analysis

In this matter, the landlord has the burden of proof and must show that grounds exist (as set out on the Notice to End Tenancy) to end the tenancy. This means that if the landlord's evidence is contradicted by the tenant, the landlord will generally need to provide additional, corroborating evidence to satisfy the burden of proof. In the absence of any corroborating evidence, I find that the landlord has not provided any evidence to



Dispute Resolution Services

Page: 3

Residential Tenancy Branch
Ministry of Housing and Social Development

show that grounds exist to end the tenancy and as a result, the Notice is cancelled and the tenancy will continue.

Conclusion

The tenants' application is allowed. The Two Month Notice to End Tenancy for Landlords use of the property dated September 30, 2010 is cancelled and the tenancy will continue. As the tenant has been successful in setting aside the Notice, he is entitled to recover his **\$50.00** filing fee for this proceeding and may deduct that amount from his next rent payment when it is due and payable to the landlord.

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: November 08, 2010.

Dispute Resolution Officer