



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 tenant for an order setting aside a notice to end this tenancy. Both parties participated in the conference call hearing.

Issue to be Decided

Should the notice to end tenancy be set aside?

Background and Evidence

The tenant testified that on November 29 she received with a two month notice to end tenancy (the "Notice") via registered mail. The landlords testified that the Notice was mailed on November 24. The Notice purports to end the tenancy for the landlords' use of the property and states that the landlords will repair the rental unit in a manner that requires it to be vacant and that the landlords will occupy the rental unit.

The landlords testified that the unit is co-owned and that the co-owner K.D. intends to reside in the unit. The landlords entered into evidence an email which they say was sent by K.D. and states that he will be moving into the rental unit. The email was sent from the email address of a party whose last name is Noone. The landlords testified that K.D. does not have his own email address and that he used his landlord's email to provide the statement. The landlords testified that K.D. is on a methadone program and that he needs a less expensive place to live and therefore desires to live in the rental unit after helping the landlords perform repairs. The landlords intend to paint, repair the bathroom fan, replace the bathtub and possibly re-carpet the unit with the assistance of K.D.

The tenant testified that she does not believe the unit requires repairs and further does not believe that K.D. will move into the unit. The tenant claimed that source of the email purportedly from K.D. should be read as “no one” rather than Noone. The tenant claimed to have spoken with K.D.’s ex-sister-in-law who told her that K.D. will not be moving anywhere because of his involvement with the methadone program.

The landlords testified that K.D. is not in contact with his ex-sister-in-law so she would have no personal knowledge of his plans.

Analysis

The landlords bear the burden of proving that they intend to use the rental unit for the purpose stated on the Notice. I do not accept that the rental unit must be vacant in order to effect the repairs intended by the landlord. However, I find that the landlord’s explanation of what they intend to transpire has the ring of truth. I find the landlord’s explanation as to why the email did not come from an account owned by K.D. to be reasonable and believable. I find that K.D. intends to move into the rental unit and accordingly I find that the landlords have established grounds to end the tenancy. The tenancy will therefore end on January 31, 2011 in accordance with the effective date of the Notice.

Conclusion

The tenant’s claim is dismissed. The tenancy will end on January 31, 2011.

Dated: January 10, 2011

Residential Tenancy Branch