



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes CNL

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is a request to cancel a Notice to End Tenancy that has been given for landlord use, to demolish the rental unit.

Preliminary matters

Prior to the hearing the applicant sent in the request that I issue orders as follows:

- 1) Order the respondent to produce all relevant evidence.
- 2) Order the respondent and its employees to respond to my attached interrogatories and notice to admit dated February 17, 2011. Responses by affidavit.
- 3) Order the respondent to produce the following employees for examination.
 - a) S.H. (clerks office), J.H (real estate), I.W. (parks), J.C. (parks), and E.K. (maintenance). (Note I have only use the initials of the parties for privacy)

It is my decision that I will not issue any such orders.

Rule 7 of the Residential Tenancy Branch Rules of Procedure states:

Application for a summons to testify

A request to a Dispute Resolution Officer to issue a summons to testify must be submitted, in writing, to the Residential Tenancy Branch, and must:
set out the name and address of the witness;

include a detailed list of any documents, photographs, video or audio tape, or other physical evidence the witness must bring to the dispute resolution proceeding;

and

provide a summary of the evidence the witness is expected to produce and a summary of the purpose for which the evidence is required.

The information requested by the applicant is not specific enough for me to issue an order to summons to testify, or to produce documents. In fact it appears that the applicant is simply asking for whatever he can think of that might possibly produce some information to assist him in this case.

Further there is nothing in the Residential Tenancy Act or Rules of Procedure that would require the respondents to respond to a list of interrogatories from the applicant in advance of the hearing, nor is there anything in the Residential Tenancy Act or Rules of Procedure that would require the respondent to respond to a "Notice to Admit" produced by the applicant. Again these lists appear to be an attempt by the applicant to ask for as much as possible in hopes that something in support of this case will be revealed.

Secondly, the applicant has also sent in a request to amend his claim; however it is my decision that I will not allow an amendment of the original application and will only be dealing with the request to cancel a Notice to End Tenancy.

Thirdly, the applicant also requested clarification of the interaction of the law and the Residential Tenancy Act however it is not my job to give legal advice or to explain the applicants rights or responsibilities under the Residential Tenancy Act, I am here specifically to adjudicate an application to cancel a Notice to End Tenancy.

Background and Evidence

The landlords testified that:

- They have given the tenant a Notice to End Tenancy because they fully intend to demolish the rental unit.
- They have applied for and received a demolition permit required and are ready to proceed with the demolition as soon as the tenant vacates.
- The property on which the rental unit sits was designated as future park property and even states such in the tenant's tenancy agreement.
- They are demolishing the rental unit in preparation for turning the area into parkland.
- They totally deny that this notice has been given in bad faith, to get rid of a tenant who stands up for himself.

The tenant testified that:

- He does not dispute that the landlords have the permits required to demolish the rental unit, or that they intend to demolish the rental unit.
- He does dispute that the notice has been given in good faith, as it is his belief that he has been given this notice simply because the landlords want to get rid of him.
- The proper planning process for the park has not even been finalized or approved and therefore at this time there is no reason to demolish the rental unit.
- He believes that the landlords are withholding information that would show that their real reason for demolishing this unit is to get rid of him, however he has no evidence to prove this claim because I(dispute Resolution Officer) refused to

order the landlord to produce the witnesses and documents that he has requested.

Analysis

It is my decision that I will not set aside the Notice to End Tenancy.

The tenant's main argument is that the property on which this rental unit sits has not gone through all the proper approvals to be converted to parkland, however the landlord does not have to prove that they have the approvals in place required to convert the land to parkland, the Residential Tenancy Act only requires that the landlords have the permits in place required to demolish the rental unit, and in this case they have the required demolition permits.

The tenant has also argued that the notice has not been given in good faith; it has only been given to get rid of him as a tenant; however I find it very unlikely that the landlords would demolish the rental unit simply to get rid of the tenant. I accept the landlords' claim that the demolition of this rental unit is for the purpose of converting the property to parkland.

Therefore it is my decision that the Notice to End Tenancy has been given in good faith, and that all the permits required are in place, and therefore this tenancy will end on March 31, 2011.

My decision was given verbally to the parties at the hearing, and at that time the landlords requested an Order of Possession be issued.

The tenant objected that I had not heard from his witness; however at the beginning of the hearing the tenant and his witness stated that the reason for the witness's participation was twofold, 1- to act as an advocate and assist the tenant, and 2- to voice her concerns about the city's proposed park. Since I have no authority over the city's

proposed park, it was my decision that the witness's testimony was not relevant to this hearing.

Conclusion

The tenants application is dismissed without leave to reapply, and at the request of the landlords I have issued an Order of Possession for 1 p.m. on March 31, 2011.

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: March 08, 2011.

Residential Tenancy Branch