



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes CNL, FF

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution, seeking to cancel a Notice to End Tenancy issued by the Landlord for the Landlord's use of the property. The tenant also applied for the recovery of the filing fee.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

Issues(s) to be Decided

Has the Landlord validly issued the Notice to End Tenancy?

Background and Evidence

The Landlord issued the Tenant a two month Notice to End Tenancy, on March 23, 2011, to be effective on May 30, 2011.

The reason the Landlord gave the Notice to the Tenant is described as, all of the conditions for sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this Notice to end tenancy, because the purchaser or a close family member intends in good faith to occupy the rental unit.

The Landlord attached a letter from the purchaser confirming that the purchaser has asked for vacant possession of the rental unit as the purchaser intends to move into the rental unit.

The tenant has disputed the notice on the basis that the date is wrong. The date is written as May 30 instead of May 31, 2011.

Analysis

Section 49 (5) of the *Residential Tenancy Act* states that a landlord may end a tenancy in respect of a rental unit if

- (a) The landlord enters into an agreement in good faith to sell the rental unit,
- (b) All the condition on which the sale depends have been satisfied, and
- (c) The purchaser asks the landlord in writing, to give notice to end the tenancy on one of the following grounds:
 - (1) The purchase is an individual and the purchaser or a close family member of the purchaser intends in good faith to occupy the rental unit

In this case the Landlord was requested in writing to serve a notice to end tenancy on the tenant as the purchaser intended in good faith to occupy the rental unit. Therefore, I find that the Notice to End Tenancy must be upheld.

During the hearing, the landlord made a request under section 55 of the legislation for an order of possession. Under the provisions of section 55(1), upon the request of a landlord, I must issue an order of possession when I have upheld a notice to end tenancy. Accordingly, I so order. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Pursuant to Section 53 (2) if the effective date stated in the notice is earlier than the earliest date permitted under the applicable section, the effective date is deemed to be the earliest date that complies with the section. In this case the effective date of the notice is corrected to May 31, 2011.

Conclusion

The Notice to End Tenancy is upheld and I grant the Landlord an order of possession effective on or before **1:00 p.m. on May 31, 2011**. Since the Tenant applied to cancel the notice to end tenancy and has not proven his case, he must bear the cost of filing the Application.

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: April 19, 2011.

Residential Tenancy Branch