



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

OPL, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on the landlord's Two-Month Notice to End the Tenancy for Landlord's Use dated August 31, 2011 and purporting to be effective October 31, 2011.

Despite being served in person the respondent landlord did not appear.

Issue(s) to be Decided

The issue to be determined based on the testimony and the evidence is whether the tenancy can be ended for landlord's use based on the Two Month Notice to End Tenancy or whether the Notice should be cancelled as requested by the tenant.

Background and Evidence

The tenancy began in 1994 and rent is \$740.00. A security deposit of \$300.00 was paid. The tenant submitted into evidence a copy of the Two-Month Notice to End Tenancy indicating that "*The landlord intends to convert the rental unit for use by a caretaker, manager or superintendant of the residential property.*"

Although the landlord did not appear, the landlord submitted evidence that consisted of written testimony giving the landlord's position about why a decision was made to convert the tenant's unit to a manager's suite.

The tenant raised the issue of bad faith and stated that this Notice was the latest of many persistent attempts by the landlord to terminate their tenancy on various excuses, none of which have been found valid at the previous hearings. The tenant testified that, because of the landlord's persistent vexatious Notices, they have been forced to continually spend time and incur the expense of making repeated applications for dispute resolution to dispute the Notices, in order to defend their tenancy.

The tenant testified that all of the information given by the landlord in support of the current Two Month Notice to End Tenancy for Landlord's Use was inaccurate and completely without merit. The tenant disputed the written testimony.

Analysis

Under section 49(6)(e) of the Act under, "*Landlord's notice: landlord's use of property*", the Residential Tenancy Act states that a landlord may end a tenancy in respect of a rental unit if the landlord has all the necessary permits and approvals required by law, and intends in good faith to convert the rental unit for use by a caretaker, manager or superintendant of the residential property.

The tenant has raised the issue of bad faith and asked that the Two Month Notice to End Tenancy for Landlord's Use be cancelled.

I find that, in order to refute the tenant's application, the landlord would be required to furnish some evidence to support the Notice. I find that the landlord's subjective written testimony was disputed by the tenant.

In this case, I find that no independent evidence was submitted by the landlord in support of the Notice and his testimony. Accordingly, I find that the landlord has not sufficiently met the burden of proof to validate the Two Month Notice to End Tenancy for Landlord's Use. Therefore, I find that the Notice to End Tenancy for Landlord's Use dated August 31, 2011 must be cancelled.

Conclusion

I hereby order that the Two-Month Notice To End Tenancy for Landlord's Use dated August 31, 2011 is permanently cancelled and of no force nor effect.

I further order that the tenant be reimbursed for the \$50.00 cost of this application and issue a monetary order in this amount in favour of the tenant

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: September 30, 2011.

Residential Tenancy Branch