



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC

Introduction

This hearing was convened upon the application of the tenant seeking to cancel a notice to end tenancy given for cause.

Both the landlord and tenant appeared at the hearing of this matter and gave evidence under oath.

On the basis of the solemnly sworn evidence presented at the hearing a decision has been reached.

Issue(s) to be Decided

Has the landlord met the burden of proving he has cause to end this tenancy.

Background

The landlord issued a one month notice to end tenancy on November 25, 2011 effective December 31, 2011 because the “Rental unit must be vacated to comply with a government order”. The landlord supplied the government order in evidence. It is an Order issued November 4, 2011 by the City of Vancouver advising the landlord that the rental building is approved as a one family dwelling and is being used as a rooming house by eight unrelated tenants. The City has ordered the landlord, amongst other things, to cease occupying the building as a rooming house. The landlord has served all 8 tenants with a Notice to End Tenancy because of this Order.

The tenant says that all of the residents have been served with a Notice to End Tenancy although under the City’s by-laws, supplied in evidence, and as reported to her by the City’s inspector only 3 tenants must vacate as the City allows 5 persons in its definition of a “family” for the purposes of a “one family dwelling”. The tenant says that there are only 6 tenants remaining in the rental unit following delivery of the Notices to End Tenancy therefore only one tenant now needs to vacate under this Order and this tenant does not wish to vacate.

The landlord responded that the City’s Order isn’t the only reason the tenancy must end. The landlord says the property has been recently purchased by them and they do not wish to be landlords any longer. The landlord says the building will be renovated and returned to a one family dwelling for use by the landlord and his family.

Findings

I accept the evidence of the tenant that not all of the residents must vacate as a result of the City’s Order yet the landlord has stated that he has served all tenants with the same Notice. The evidence is that some tenants have already vacated and the landlord provided no evidence to show that other tenants have disputed their Notices in which case they are deemed to have accepted their Notices and must therefore vacate. As this tenant has disputed the Notice she received I will allow her application and I dismiss the Notice to End Tenancy given in this matter.

With respect to the landlord’s other reason for wishing to end this tenancy, if that is the case, there is a different Notice under the Act to end this tenancy for that purpose.

Conclusion

The tenant's application is allowed. The Notice to End Tenancy which is the subject of this matter is set aside with the effect that this tenancy shall continue.

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: December 14, 2011.

Residential Tenancy Branch