



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FF

Introduction

This hearing dealt with an application by the tenants for an order setting aside a notice to end this tenancy. Both parties were represented at the conference call hearing.

Issue to be Decided

Should the notice to end tenancy be set aside?

Background and Evidence

The parties agreed that the tenancy is set for a fixed term ending on July 31, 2012. They further agreed that the tenants were served with a notice to end tenancy purporting to end the tenancy because the landlord intended to live in the rental unit. The notice purported to be effective January 31, 2012.

Analysis

Section 49(2)(c) of the Act provides that a notice given for landlord's use of the property cannot end a fixed term tenancy early. I find that the notice is therefore not effective to end the tenancy on January 31, 2012 and I order that the notice be set aside and of no force or effect. As a result, the tenancy will continue.

Conclusion

The notice is set aside. I find that the tenants are entitled to recover the \$50.00 filing fee paid to bring this application. The tenants may deduct \$50.00 from a future rental payment.

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 12, 2011

Residential Tenancy Branch