



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL

Introduction

This hearing dealt with the tenant's application to cancel a notice to end tenancy for landlord's use. The tenant, an advocate for the tenant and both landlords participated in the teleconference hearing.

I have reviewed all evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Background and Evidence

The tenancy began on April 1, 2010.

On November 16, 2011 the landlord served the tenant a notice to end tenancy for landlord's use. The notice indicates that the reason for ending the tenancy is that the landlord or a close family member intends to occupy the rental unit.

The landlord's evidence was that he intends to occupy the rental unit to do renovations. The landlord wanted access to the rental unit roof to address a leak in the roof, but the tenant would not allow the landlord to enter the rental unit for nine months. The damage on the roof is now so great that renovations are required. In its current condition, the house is not safe to be occupied.

The tenant's response was that the landlord has entered the unit four times, and the roof had a hole and was leaking even before the tenancy started. The landlord has not provided evidence that he intends to occupy the rental unit.

Analysis

I find that the landlord has failed to provide sufficient evidence that he or a close family member intends to occupy the rental unit. The landlord's evidence was focussed primarily on an intention to repair the roof of the rental unit, which may or may not require vacant possession; in any case, the notice to end tenancy did not indicate that the reason for ending the tenancy was to do renovations that required vacant possession.

I find that the notice to end tenancy is not valid.

Conclusion

The notice to end tenancy is cancelled, with the effect that the tenancy continues.

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 8, 2011.

Residential Tenancy Branch