



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by the tenants and their interpreter and the landlord and her interpreter.

This hearing was convened as a result of a review decision dated January 3, 2012 granting a new hearing on the matters that were originally heard in a hearing on December 14, 2011. In the decision from that hearing, the tenant's Application was dismissed and the landlord had been granted an order of possession.

Issue(s) to be Decided

The issues to be decided are whether the original decision and order granted on December 14, 2011 should be confirmed, varied or set aside, pursuant to Section 82 of the *Residential Tenancy Act (Act)*.

In addition, it must to be decided if the tenant is entitled to cancel a 2 Month Notice to End Tenancy for Landlord's Use of Property, pursuant to Section 49 of the *Act*.

Background and Evidence

This tenancy began on August 1, 2011 as a 6 month fixed term tenancy for the monthly rent of \$2,300.00 due on the 1st of each month with a security deposit of \$1,150.00 paid.

The landlord testified that they informed the tenants towards the end of November 2011 that the fixed term tenancy was ending and they expected the tenants to vacate the rental unit. The landlord went on to say that the tenants insisted on having the landlord issue a 2 Month Notice.

The landlord testified that their intention was to demolish the rental unit and rebuild but that, at the time they issued the notice, they had not yet obtained their permits to do so. They expect to have their permits by mid February 2012.

The landlord confirmed they issued a 2 Month Notice to End Tenancy for Landlord's Use of Property on November 21, 2011 with an effective vacancy date of February 1,

2012 citing the landlord has all necessary permits and approvals required by law to demolish the rental unit or repair the rental unit in a manner that requires the rental unit to be vacant.

Analysis

Section 49 of the *Act* allows a landlord to end a tenancy if the landlord has all the necessary permits and approvals required by law, and intends in good faith, to, among other things, demolish the rental unit; renovate or repair the rental unit in a manner that requires the rental unit to be vacant.

From the landlord's testimony, I accept that the landlord does not have all the necessary permits and approvals required by law to make to demolish or renovate the rental unit in a manner that requires it to be vacant. For this reason, I find the 2 Month Notice to End Tenancy for Landlord's Use of Property on November 21, 2011 to be in effective.

Conclusion

Based on the above, I order the original decision and order granted on December 14, 2011 by DRO XXXXXX be set aside. I also order the tenant may disregard the 2 Month Notice to End Tenancy for Landlord's Use of Property issued on November 21, 2011 and that the tenancy remains in full force and effect.

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: January 24, 2012.

Residential Tenancy Branch