



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNL, FF

Introduction

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for landlord's use of property. This hearing was originally scheduled to be heard on January 04, 2012. At that hearing, the landlord requested the opportunity to present evidence to support his reasons for the notice to end tenancy. Since the landlord received the notice of hearing on December 27, 2011, he did not have enough time to respond prior to the hearing on January 04. Therefore the hearing was adjourned to this date – January 23, 2012.

Both parties attended the hearing and had opportunity to be heard.

Issue to be Decided

Did the landlord have all the necessary permits in hand at the time he served the notice to end tenancy?

Background and Evidence

The tenancy began more than three years ago. The current rent is \$854.00 due on the first of each month. On November 30, 2011, the landlord served the tenant with a two month notice to end tenancy for landlord's use of property. The reason for the notice was that the landlord has all necessary permits and approvals required by law to repair the rental unit in a manner that requires the rental unit to be vacant. The effective date of the notice is January 31, 2012.

The tenant argued that the landlord did not have the necessary permits in hand at the time he served the notice to end tenancy. A copy of the permit was filed into evidence.

The landlord agreed that the permit was obtained on December 22, 2011 and that at the time he served the notice, he had applied for the permit but did not have it in hand.

Analysis

Section 49(6)(b) of the Act, pursuant to which the notice to end tenancy was issued, provides as follows:

49(6) 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 do any of the following:

49(6)(b) renovate or repair the rental unit in a manner that requires the rental unit to be vacant;

In this case, I find that the landlord did not have the necessary permits and approvals in place; at the time he served the tenant with the notice to end tenancy for landlord's use of property. Accordingly, I set aside the notice and the tenancy will continue.

Since the tenant has proven her case, she is entitled to the recovery of the filing fee. The tenant may make a onetime deduction of \$50.00 from a future rent.

Conclusion

The notice to end tenancy is set aside and the tenancy will continue.

The tenant may make a onetime deduction of \$50.00 from a future rent.

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 23, 2012.

Residential Tenancy Branch