



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL

Introduction

This hearing was convened on the tenants' application of February 28, 2012 seeking to have set aside a Notice to End Tenancy for landlord use, specifically to repair the rental unit in a manner that requires the rental unit to be vacant.

Issue(s) to be Decided

Should the Notice to End Tenancy be set aside or upheld?

Background and Evidence

This tenancy began on March 1, 2009. Rent is \$1,050 per month and the landlord holds a security deposit of \$550 paid on February 23, 2009 and a pet damage deposit of \$500 paid on March 1, 2009.

The rental unit is in the lower portion of a larger house in which the upper portion rents for \$3,400 per month. The tenants in the upper portion have given notice that they would be ending their tenancy on April 1, 2012.

During the hearing, the parties concurred that the landlord had served the applicant tenants with a two month Notice to End Tenancy for landlord use to take effect on April 30, 2012, first by email on February 26, 2012 and again in person on February 29, 2012.

With the notice, the landlord provided the tenants with a letter of explaining that various complaints from both sets of tenants had persuaded him that the nature of the home was simply not conducive to double occupancy and that he intended to restore the rental building to a single family dwelling.

The landlord also provided the tenants with an initial estimate from a company to do the work at a cost of \$14,224.

On the basis of that estimate, the tenants consulted the municipality's web site and determined that some components of the project would have required building permits, that no such permits had been issued, and that the contractor in question did not appear to be licensed as required.

The tenants submitted that as, not all permits necessary for the renovation had been obtained as required under section 49 of the Act, the Notice to End Tenancy was invalid.

The landlord, who is currently on assignment overseas, stated that the company that did the estimate had done work for him previously and had advised him that the proposed renovation did not require permits.

In addition, the landlord had found the estimate to be higher than he initially intended and he subsequently obtained a second quote for a scaled down project. That contractor also advised him that permits were not required. As assurance, the landlord asked an architect who was a personal friend to review the drawings and the proposed project, and he too confirmed that the work would not require permits.

The tenant pointed to specific items in the proposed renovation vis a vis the municipalities' web site, and expressed the conviction that permits would be required for at least part of the project.

Analysis

A key component in assessing the validity of a Notice to End Tenancy for landlord use is whether that notice has been served in good faith or whether it has been served for an ulterior motive.

In the present matter, taking into account that the imminent vacating of the larger upper unit created a window of opportunity for the landlord to restore the rental building to a single family dwelling supports the good faith of the notice.

I accept the evidence of the landlord that, being out of the country, he relied on advice of his contractor and architect friend that the project did not require permits.

I further accept that, if he believed permits had been required, he would have directed that they be obtained expeditiously as he is most anxious to begin the work as soon as possible to be able to offer the property for rent as a single family dwelling and minimize the loss of revenue.

The fact that the landlord provided the tenants with a letter of explanation and a copy of the initial estimate with the notice to end tenancy further persuades me that he was acting in good faith and that it was reasonable for him to rely on the advice of the first contractor, confirmed by the second contractor and the architect that permits were not required.

I find those assurances to bear greater weight than the tenants' interpretation of the materials published on the municipality's web site.

Accordingly, I find that the Notice to End Tenancy dated February 25, 2012 is valid and I decline to set it aside.

Conclusion

The Notice to End Tenancy of February 25, 2012 is upheld and continues to be in 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: March 14, 2012.

Residential Tenancy Branch