



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 issued by the landlord for the landlord's use of the property.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

Issues(s) to be Decided

Has the landlord validly issued the notice to end tenancy and does the landlord or a family member of the landlord intend, in good faith, to move into the rental suite?

Background and Evidence

The tenancy started on March 15, 2007. The monthly rent is \$1,056.73.

On February 27, 2012, the landlord served the tenant with a two month notice to end tenancy for landlord's use of property. The reason for the notice is that "*the rental unit will be occupied by the landlord, or the landlord's spouse or a close family member (father, mother or child) of the landlord or the landlord's spouse.*"

The agent for landlord testified that the landlord is the Roman Catholic Archbishop of Vancouver which is a worldwide organisation made up of thousands of members including nuns, priests and monks. He stated that it was the landlord's intention to allow three nuns who were moving to Canada from overseas, to reside in the rental unit. The landlord stated that the nuns are not blood relatives of the landlord but are members of the organisation. The tenant argued that she too is a member of the organisation. The landlord did not file any evidence to support his testimony and reasons for serving the notice to end tenancy.

Analysis

Section 49 of the *Residential Tenancy Act* speaks to a two month notice to end tenancy for landlord's use of property.

Landlord's notice: landlord's use of property

49 (1) In this section:

"close family member" means, in relation to an individual,

(a) the individual's father, mother, spouse or child, or

(b) the father, mother or child of that individual's spouse;

(3) A landlord who is an individual may end a tenancy in respect of a rental unit if the landlord or a close family member of the landlord intends in good faith to occupy the rental unit.

(4) A landlord that is a family corporation may end a tenancy in respect of a rental unit if a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the rental unit.

When the tenant disputes a notice to end tenancy, the landlord has an onus to prove he has a valid reason for wanting to end the tenancy. Based on the testimony of both parties, I find that the landlord has not provided any evidence to indicate the relationship between the persons who intend to move into the rental unit and the landlord. I also find that the persons that intend to move into the rental unit do not fit the definition of "*close family member*"

Conclusion

The notice to end tenancy is set aside and the tenancy will continue as per the terms of the tenancy agreement.

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 15, 2012.

Residential Tenancy Branch