



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, CNL

Introduction

Some documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is a request to cancel a Notice to End Tenancy that has been given for landlord use, and a request for recovery of the \$50.00 filing fee.

Background and Evidence

On March 22, 2012 the landlord served the tenant with a two month Notice to End Tenancy for landlord use, by registered mail.

The applicant testified that:

- She believes this Notice to End Tenancy has been given in retribution, as it was not initiated until after she won a dispute resolution against the landlord.

- She does not believe the landlord is going to move into the rental unit, she believes this is just a method of getting her out.
- She also believes the landlord is inconsistent and the evidence she has given in her letter, stating that she is going to move upstairs and then later stating that her son or any child or family member from the other owners could move in upstairs.
- She is therefore asking this Notice to End Tenancy be cancelled.

The respondent testified that:

- Due to some financial issues the property had to be refinanced, and as part of the refinancing there was a requirement that it be owner occupied.
- This notice was not given in retribution for the previous dispute resolution hearing, as that matters been fully settled and the tenant compensated.
- She fully intends to move into the rental unit, and her son may move into the rental unit with her as well.
- She has provided a statement from the mortgage professional and supporting documents to show that the approval of the mortgage was based on the unit being owner occupied.
- She is therefore requesting that this notice to end tenancy be upheld and an Order of Possession be issued.

Analysis

I reviewed the documentary evidence provided by the landlord, and it is my finding that a requirement of the refinancing of this property was that the property be owner occupied.

Therefore, although it may appear suspicious that the notice was given almost immediately after the landlord lost a dispute resolution hearing, it is my finding that this notice was given in good faith.

I therefore uphold the Notice to End Tenancy and this tenancy ends on May 31, 2012.

Conclusion

The application to cancel the Notice to End Tenancy is dismissed and at the request of the landlord I have issued an Order of Possession.

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: April 26, 2012.

Residential Tenancy Branch