



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL

Introduction

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

The hearing was conducted via teleconference and was attended by both tenants; their advocate and the landlord.

Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to cancel a 2 Month Notice to End Tenancy for Landlord's Use of Property, pursuant to Section 49 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The parties agree the tenancy began in May 2011 as a month to month tenancy for a monthly rent of \$500.00 due on the 1st of each month with no security deposit paid.

Both parties provided a copy of a 2 Month Notice to End Tenancy for Landlord's Use of Property served on the tenants by the landlord on October 26, 2012 with an effective vacancy date of January 1, 2013 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.

The parties agree that as a result of the discovery of major deficiencies in the electrical service in the rental unit the landlord has hired a contractor to deal with both an emergency situation and bringing the electrical service up to current code. Both parties also agree that this work is either completed or very nearly so.

The landlords submit that as a result of this major work they have had to seek a line of credit and as such they cannot afford to keep the rental unit and hope to put it on the

market for sale. In order to prepare the unit for sale the landlord wants to install some new windows and complete repairs to the vaulted ceiling in the main living area.

The landlords submit that as a result of completing the electrical work while the tenants were still in the rental unit the work cost the landlord more as the contractor would not give them a set rate for the job but rather they were required pay an hourly rate.

The landlords assert that in addition to potential additional costs the type of work is not conducive to having tenants in the unit during the time when the work will be completed. The landlords have provided no documentary evidence from any contractors regarding window installation or ceiling repairs that outline a need to have the unit vacant when completing the work.

The tenant's dispute whether or not the landlord has the necessary permits. The landlord submits that the permits submitted by the tenants in their evidence include a permit for the electrical work that is complete and a building permit for the additional work the landlords intend to complete (windows and ceiling repairs).

Analysis

Section 49 of the *Act* does allow a landlord to end a tenancy with a 2 month notice if the landlord has all the necessary permits and approvals required by law, and in intends in good faith, to renovate or repair the rental unit in a manner that requires the rental unit to be vacant. If the work requires the rental unit to be vacant, it must be determined if the length of time required to be vacant justifies terminating the tenancy.

From the evidence and testimony provided, I find the landlord has acquired the necessary permits to complete repairs to the rental unit and the landlords intend, in good faith, to complete the repairs described. However, I find the landlords have failed to provide any evidence to substantiate the need to have the rental unit vacant for the repairs planned, other than for convenience, or for what duration of time it may be required to be vacant.

In addition, I note the 2 Month Notice issued by the landlord is not complete. While there is a notation on the bottom of the notice that the landlord hand delivered the notice to the tenants on October 26, 2012 the landlord has not dated the Notice indicating when it was signed by the landlord.

Section 52 states that in order to be effective, a notice to end tenancy must be in writing and must, among other things, be signed and dated by the landlord.

Conclusion

For the reasons noted above I grant the tenant's Application to cancel the 2 Month Notice to End Tenancy for Landlord's Use served to them on August 26, 2012 and I find the tenancy will remain 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: December 06, 2012.

Residential Tenancy Branch