



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNL, MT

Introduction

The hearing was scheduled in response to the Tenant's Application for Dispute Resolution, in which the Tenant applied to set aside a Two Month Notice to End Tenancy for Landlord's Use of Property and for more time to file an application to set aside a Notice to End Tenancy. As the Tenant filed the Application for Dispute Resolution within the legislated time frames, I find there is no need to consider the application for more time to file an application to set aside a Notice to End Tenancy.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

Issue(s) to be Decided

Should the Two Month Notice to End Tenancy be set aside?

Background and Evidence

The Landlord and the Tenant agree that this tenancy began approximately thirteen years ago and that the Tenant is currently required to pay monthly rent of \$945.00 by the first day of each month.

The Landlord and the Tenant agree that the Landlord personally served a Two Month Notice to End Tenancy for a Landlord's Use of Property to the Respondent not in attendance at this hearing on April 30, 2013, which had a declared effective date of June 30, 2013. The reason for ending the tenancy cited on the Notice, was that the rental unit will be occupied by the landlord or the landlord's spouse, or a close family member of the landlord or the landlord's spouse.

The Landlord stated that the Notice was served on the Tenant because the Landlord is working and living in a residence that is too small for his current needs; that he recently became self employed and that he needs more office space in his residence; that he

has been cohabitating for the last 1 or 1.5 years and they want more living space; and that he intends to move into the rental unit with his girlfriend.

The Tenant stated that he is aware that the Landlord has furniture stored in a garage near the rental unit and that he has been trying to rent the accommodations he is currently occupying.

The Tenant stated that he does not believe that the Landlord intends to move into the rental unit, in part, because the rental unit needs some maintenance.

The Tenant stated that he understands the Landlord has ended a tenancy in this manner in the past, although he did not submit any evidence to support this belief nor did he submit any evidence to suggest that the Landlord did not have the right to end previous tenancies.

Analysis

Section 49(4) of the *Act* stipulates, in part, that a landlord may end a tenancy if the landlord or a close family member of the landlord intends in good faith to occupy the rental unit. In the circumstances before me, I find that the Tenant has submitted insufficient evidence to refute the Landlord's claim that he intends to move into the rental unit. In reaching this conclusion I note that some of the evidence supplied by the Tenant, specifically that the Landlord has furniture stored in a garage near the rental unit and that he has been trying to rent the accommodations he is currently occupying, appears to corroborate the Landlord's testimony that he intends to move into the rental unit because he needs more space.

The Landlord and the Tenant are reminded of the provisions of section 51(1) of the *Act*, which stipulates that a tenant who receives notice to end a tenancy pursuant to section 49 of the *Act* is entitled to receive from the landlord before the effective date of the notice an amount that is the equivalent of one month's rent payable under the tenancy agreement.

The Landlord and the Tenant are also reminded of the provisions of section 51(2) of the *Act*, which stipulates that the landlord must pay the tenant the equivalent of two months' rent payable under the tenancy agreement if steps have not been taken to accomplish the stated purpose for ending the tenancy under section 49 of the *Act* within a reasonable period after the effective date of the notice or if the rental unit is not used for that stated purpose for at least six months beginning within a reasonable period after the effective date of the notice.

Conclusion

I hereby dismiss the Tenant's application to set aside the Notice to End Tenancy and I grant the Landlord an Order of Possession, as requested at the hearing, which will be

effective on June 30, 2013. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

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: May 28, 2013

Residential Tenancy Branch

