



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

CNL, FF

Introduction

This hearing dealt with an application by the tenant to cancel a 2 Month Notice to End Tenancy For Landlord's Use (the Notice), dated May 14, 2013, with an automatically adjusted effective date of July 31, 2013.

Both parties attended the hearing and were given opportunity to present all relevant evidence and relevant testimony in respect to this claim and to make relevant prior submission of document evidence to the hearing and fully participate in the conference call hearing. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

At the outset the landlord requested an Order of Possession. It must be noted that in this type of application, the burden of proof rests with the landlord to provide evidence that the Notice was validly issued for sufficient reasons as stated in the Notice to End.

Issue(s) to be Decided

Is the notice to end tenancy valid and issued for valid reasons?

Should the Notice to End dated May 14, 2013 be set aside?

Is the landlord entitled to an Order of Possession?

Background and Evidence

This tenancy began 30 years ago. A copy of the Notice to End was submitted. Despite the Notice being an older version, the Notice contains the same provisions within the Act and refers to the same sections of the Act and affords the tenant the same information directing the tenant of their options respecting the Notice: most importantly, the option to dispute the Notice, which the tenant has done. The notice to end was issued for the following reasons;

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

The tenant disputes the Notice to End.

The landlord provided document evidence, and reconfirmed in testimony, that they intend to use the rental unit to house seasonal workers associated with their business, and for the purpose of storage.

Analysis

In this type of application, the burden of proof rests with the landlord to provide evidence that the Notice was validly issued in good faith and for valid reasons prescribed under Section 49 of the Act.

Clearly, the landlord's testimony is that they will not to use the rental unit for the stated reasons as set out in the Notice to End; but rather, it will be occupied in tandem with their business for their seasonal workers. I find that by this fact alone, the landlord's Notice to End for Landlord's Use of Property was not issued in for the reasons stipulated in the Notice, or for a purpose prescribed by the Act. As a result, I am unable to establish that the landlord issued the tenant a valid Notice to End. Therefore, **I Order** the Notice to End dated May 14, 2013 **is cancelled**, or set aside. If necessary, the landlord is at liberty to issue another new *valid* Notice to End for *valid* reasons.

The tenant is entitled to recover their filing fee of \$50.00.

Conclusion

The tenant's application is granted. The landlord's Notice to End for Landlord's Use of Property dated May 14, 2013 is **set aside and is of no effect**. The tenancy continues.

I Order that the tenant may deduct **\$50.00** from a future rent in satisfaction of their filing fee.

This Decision is final and binding on both parties.

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: June 12, 2013