



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AA Desert Inn Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MT and CNL

Introduction

This application was brought by the tenant seeking to have set aside a two-month Notice to End Tenancy for landlord use served on May 31, 2013 and setting an end of tenancy date of August 1, 2013. The tenant also sought an extension of 15-day time limit within which tenants may file to contest a notice to end for landlord use.

As to the request for more time, branch records show that the tenant initially applied to contest the notice on June 14, 2013, a date that was on time. However, as the tenant had not provided a telephone number, he was not contacted to pick up the hearing package. When no one appeared at the hearing scheduled for July 17, 2013, the arbitrator dismissed the application with leave to reapply leading to the present application on July 25, 2013.

Given the extraordinary circumstances, I proceeded to hear the application on its merits.

Issue(s) to be Decided

Should the notice to end the tenancy be set aside or upheld?

Background and Evidence

The parties believe that this tenancy began in September 2006. Rent is \$800 per month and the landlord holds a security deposit of \$375 paid at the beginning of the tenancy.

During the hearing, the landlord gave evidence that he required the rental unit to provide housing for management of the 25-unit converted motel as the unit is the most central in the complex.

The tenant stated that he had questioned the good faith of the notice as there were other units available at the time, but the landlord stated that there are major renovations underway and ongoing plans to bring the deteriorating complex up to standard meaning needed to keep vacant units vacant.

The tenant stated that moving created a particular challenge as he is caregiver to his disabled daughter and the rental unit is well situated for her needs.

The landlord stated that he would do whatever he could to assist the tenant in relocating and confirmed that he had no issues with the tenancy.

The landlord is aware that the tenant is entitled to payment in the equivalent of one-month's rent under section 51 of the *Act* which also provides for an application from the tenant for the equivalent of an additional two months' rent if the rental unit is not used for the purpose stated in the notice.

Analysis

Residential Policy Guideline 2 advises in part:

"Good faith is an abstract and intangible quality that encompasses an honest intention, the absence of malice and no ulterior motive to defraud or seek an unconscionable advantage.

"A claim of good faith requires honesty of intention with no ulterior motive. The landlord must honestly intend to use the rental unit for the purposes stated on the Notice to End the Tenancy."

I accept the evidence of the landlord that the rental unit will be used to house management employees of the rental property to oversee the continuing operation and renovation program.

Therefore, I find that the Notice to End Tenancy is lawful and valid and I do not have sufficient evidence to set it aside.

On hearing that determination, the parties agreed as follows:

1. The landlord agrees to let the tenants remain until September 30, 2013;
2. The parties agree that the landlord will have an Order of Possession to take effect on September 30, 2013 at 1 p.m.
3. The landlord and manager gave full assurance that the tenants would receive the return of one-month's rent as granted under section 51 of the Act by cheque or money order payable to the tenants.

The security deposit remains to be dealt with in accordance with section 38 of the *Act*.

Conclusion

The Notice to End Tenancy of May 31, 2013 is upheld as lawful and valid.

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect at 1 p.m. on September 30, 2013.

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: September 03, 2013

Residential Tenancy Branch

