



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FF

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 one of the tenants 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 and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 49, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenant provided into evidence the following documents:

- A copy of a tenancy agreement signed by the parties on January 6, 2013 for a 1 year fixed term tenancy beginning on February 1, 2013 for a monthly rent of \$1,550.00 due on the 1st of each month with a security deposit of \$750.00 paid; and
- A copy of a 2 Month Notice to End Tenancy for Landlord's Use of Property issued by the landlord on September 26, 2013 with an effective vacancy date of November 30, 2013 citing 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 testified that he is intending to move in to the rental unit to make some minor repairs to prepare the rental unit for sale. The tenant provided confirmation that the rental unit is currently listed for sale. The landlord testified that the repairs and renovations he hopes to complete do not require vacant possession of the rental.

Analysis

Section 49 of the *Act* allows a landlord to end a tenancy by issuing a notice to end tenancy with an effective date not earlier than 2 months after the date the tenant receives the notice and the day before the day in the month that rent is payable under the tenancy agreement if:

- i. 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;
- ii. A family corporation owns the rental unit and it will be occupied by an individual who owns, or whose close family member owns, all the voting shares;
- iii. All conditions for sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give a notice because the purchaser or a close family member intends in good faith to occupy the rental unit;
- iv. The landlord has all the necessary approvals required by law, and intends in good faith, to renovate or repair the rental unit in a manner that requires the rental unit to be vacant;
- v. The landlord intends to convert the residential property to strata lots or a not-for-profit housing cooperative;
- vi. The landlord intends to convert the rental unit for use by a caretaker, manager or superintendent for the residential property; or
- vii. The landlord has all necessary permits and approvals required by law to convert the rental unit to a non-residential use.

While I accept the landlord intends to move into the rental unit I find that his purpose to do so is not for a long term home but rather to simply make repairs to prepare the unit for sale. As such, I find the landlord does not have a purpose allowed under Section 49 to end the tenancy for landlord's use of property.

Conclusion

Based on the above, I order the 2 Month Notice to End Tenancy for Landlord's Use of Property issued by the landlord on September 26, 2013 to be cancelled and I find the tenancy remains in full force and effect.

I find the tenant is entitled to monetary compensation pursuant to Section 67 in the amount of **\$50.00** comprised of the fee paid for this application. I order the tenant may deduct this amount from his January 2014 rent payment pursuant to Section 72(2)(a) of the *Act*.

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: November 29, 2013

Residential Tenancy Branch

