



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL

Introduction

This is an application filed by the tenant for an order to cancel the notice to end tenancy issued for landlord's use of property.

Both parties attended the hearing by conference call and gave testimony. The tenant provided documentary evidence in a copy of the 2 month notice to end tenancy and the landlord provided no documentary evidence. As both parties have attended and have confirmed receipt of the notice of hearing package, I am satisfied that both parties have been properly served.

At the end of the hearing, the landlord stated that he is currently without a mailing address. The toll free information line was provided to the landlord and he will provide at a later time a mailing address to the Residential Tenancy Branch to request a copy of the decision for delivery.

The landlord stated during the hearing that he wished to end the tenancy and move into the rental unit himself as soon as possible. I find that this constitutes a request to end the tenancy and to obtain an order of possession.

Issue(s) to be Decided

Is the tenant entitled to an order cancelling the notice to end tenancy?

Is the landlord entitled to an order of possession?

Background and Evidence

The tenant states in her details of dispute, "Landlord acting in bad faith about using property for himself. Has a for sale sign in front yard. His intention is not to use the property for himself."

The tenant has provided a copy of the 2 month notice to end tenancy issued for landlord's use of property dated February 1, 2014. The notice also states an effective end of tenancy date of April 1, 2014. The notice also states one reason for cause as, "The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother or child) of the landlord or the landlord's spouse."

The landlord confirmed in his direct testimony that it was his intention to move into the rental unit as soon as possible after regaining possession of the rental property as he is currently homeless. The landlord stated that he moved from Fort St. John to Dawson Creek to live at his rental property. The landlord also stated that the rental property was currently for sale and it was his intention to vacate the property and move to Trail, B.C., as soon as it was sold.

Both parties agreed in their testimony that the 2 month notice to end tenancy issued for landlord's use was served on the tenant on February 1, 2014. The tenant states that 2 months from this service date would mean that the effective end of tenancy date would be April 30, 2014 and not the stated April 1, 2014 date. The landlord disputed this.

Analysis

Section 49 (2) of the Residential Tenancy Act states,

(2) Subject to section 51 [*tenant's compensation: section 49 notice*], **a landlord may end a tenancy** for a purpose referred to in subsection (3), (4), (5) or (6) **by giving notice to end the tenancy effective on a date that must be**

(a) **not earlier than 2 months after the date the tenant receives the notice,**

(b) **the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable** under the tenancy agreement, and

As both parties are in agreement that the notice was served on February 1, 2014, I find that the effective end of tenancy date shall be corrected to April 30, 2014 from April 1, 2014 as this is a 2 month notice and not a 60 day notice.

I accept the evidence provided by both parties and find that the tenant has failed to establish a claim that the landlord is acting in bad faith. The landlord has admitted that he will be occupying the rental unit for the stated purpose, but neither party has provided any details of how long that may be. I refer both parties to that portion of the 2 month notice that states,

"If the landlord does not take steps toward the purpose for which this Notice was given or if the unit is not used for the stated purpose **for at least 6 months** (emphasis added) beginning within a reasonable period after the effective date of this Notice, the landlord or purchaser must pay the tenant an additional amount equal to double the monthly rent paid under the tenancy agreement."

The tenant's application is dismissed.

Conclusion

The tenant's application is dismissed.

The landlord is granted an order of possession effective on April 30, 2014.

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: April 02, 2014

Residential Tenancy Branch

