



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNL OPL

Introduction

This hearing dealt with an application by the tenant pursuant to the Residential Tenancy Act (the Act) for orders as follows:

- a) To cancel a notice to end tenancy for landlord's use of the property pursuant to section 49;

Service:

The Notice to End Tenancy is dated March 12, 2014 to be effective May 31, 2014 and the tenant confirmed it was served personally on him. The landlord agreed they received the Application for Dispute Resolution by registered mail. I find the documents were legally served for the purposes of this hearing.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that he requires the property for his own use and has the necessary approvals and permits outlined in section 49(6) of the Act? Or is the tenant entitled to relief? Is the landlord entitled to an Order of Possession if the tenant is unsuccessful in the application?

Background and Evidence

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced on April 1, 2008, it is now a month to month tenancy, rent is \$1308 a month and a security deposit of \$575 was paid in 2008. The tenant said the landlord served a Notice to End Tenancy for he had sold the property and the purchaser intended to demolish and renovate the property; however he said that the purchaser did not have the permits and approvals required to issue such a notice under section 49 of the Act. He noted that the Notice to End Tenancy had no reason checked or given.

The landlord's lawyer conceded that the Notice to End Tenancy was not complete. She said they did not oppose setting aside the Notice. She noted the building is up for sale with closing of June 4, 2014 and the purchaser hopes to get all the necessary permits

by then and either reach an agreement with the tenants or issue new Notices to End Tenancy.

Included with the evidence is a copy of the Notice to End Tenancy and the registered mail receipt.

On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

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Analysis:

As discussed with the parties in the hearing, the onus is on the landlord to prove on a balance of probabilities that they have good reason to evict the tenant. I find the landlord agreed that this Notice to End Tenancy was incomplete as it provided no reason for ending the tenancy. I find the Notice is therefore invalid pursuant to section 52(d) of the Act.

Conclusion:

The Application of the Tenant to set aside the Notice to End Tenancy is granted. The Notice to End Tenancy dated March 12, 2014 is hereby set aside and the tenancy is reinstated. No filing fee was requested and there is no proof of payment of the fee so none is awarded.

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 09, 2014

Residential Tenancy Branch

