



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNL

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An order providing more time to make an application to dispute a notice to end tenancy – Section 66; and
2. Cancellation of a notice to end tenancy – Section 49.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions under oath.

Preliminary Matter

At the onset of the hearing it was noted that the Tenant provided copies of two notices to end tenancy, one of which was issued to a different tenant in a different unit. The Tenant states that the other notice to end tenancy was for her mother who lives in the same building and that it was not the Tenant’s intention to dispute that notice.

Issue(s) to be Decided

Is the Tenant entitled to an extension of the time limit?

Is the notice to end tenancy valid?

Background and Evidence

The tenancy started in April 2007. Rent of \$450.00 is currently payable monthly on the first day of each month. On September 16, 2014 the Landlord served the Tenant in

person with a two month notice to end tenancy for landlord's use (the "Notice"). The reason indicated for the Notice is that the landlord has all the necessary permits and approvals required by law to demolish the rental unit or to repair the rental unit in a manner that requires the rental unit to be vacant.

The Tenant states that she attended the Residential Tenancy Branch (the "RTB") on October 1, 2014 but was told to return the next day as the RTB could not handle any further customers on that day. The Tenant states that she got there later in the day and there were several people still waiting in line to be served. The Tenant's Witness states that the Tenant relayed this information to the Witness later that day and that the RTB had given the Tenant a "pink slip". The Tenant states that she had no choice but to make the application late due to the RTB's inability to take her application on the day she initially attended.

The Landlord states that no permits have been obtained for the work planned. The Landlord states that the deck and facing wall of the Tenant's unit bedroom have to be removed due to mold and that the Tenant must be out of the unit in order for the work to be done due to health concerns. The Landlord indicates that they do not have any idea how long or how extensive the work will be as the Tenant has not allowed the contractor to make an assessment of the repairs and renovations. The Landlord states that no permits are required for this work or that only the contractor can obtain the permits that may be required.

Analysis

Section 49 of the Act provides that a tenant may dispute a two month notice to end tenancy for landlord's use by making an application for dispute resolution within 15 days after the date the tenant receives the notice. Section 66 of the Act provides that the director may extend a time limit established by this Act only in exceptional circumstances. Accepting the Tenant's credible evidence in relation to the RTB's ability to accept the Tenant's application on October 1, 2014, the last date within the 15 day time limit, and noting that the Tenant's application was made on October 2, 2014, I find

that the Tenant has substantiated exceptional circumstances and that I may therefore consider the Tenant's claim to cancel the Notice.

Where a notice to end tenancy comes under dispute, the landlord has the burden to prove, on a balance of probabilities, that the tenancy should end for the reason or reasons indicated on the Notice and that at least one reason must constitute sufficient cause for the Notice to be valid. Given that the Landlord has no evidence of the extent or duration of work or requirement of permits for the removal of the deck and wall, I find that the Landlord has not substantiated that the unit must be vacant for the work to be done or that permits have been obtained to do work that requires the unit to be empty. I find therefore that the Notice is not valid and that the Tenant is entitled to a cancellation of the Notice. The tenancy continues.

Conclusion

The Notice is cancelled.

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 20, 2014

Residential Tenancy Branch

