



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 September 20, 2014 to be effective December 1, 2014 and the tenant confirmed it was served by posting it under his door. The tenant /applicant gave evidence that they served the Application for Dispute Resolution on by registered mail; it was verified online as delivered successfully on October 8, 2014. 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 they need to take possession of the property for their own use pursuant to section 49? Or is the tenant entitled to any relief

Background and Evidence

The landlord did not attend the hearing although served with the Notice of Hearing. The tenant was given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced over two years ago, rent is \$650 a month and a security deposit of \$325. The landlord served a Notice to End Tenancy under section 49 to take over the unit for occupancy by him, his spouse or a close family member. However, the tenant said this was a new owner/landlord who employed an agent. After the Notice to End Tenancy was served, he got a letter from a new agent who said the first agent had been wrong and the Notice to End Tenancy was revoked.

The tenant said he is a good tenant and a student who cannot afford the time to move now that school has started.

Included with the evidence is a Notice to End Tenancy, and a 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:

I find the onus is on the landlord to prove on a balance of probabilities that they have good cause to evict the tenant, in this case that they need the unit for occupancy by the landlord, his spouse or a close family member.

I find the evidence of the tenant credible that the landlord had changed his mind and revoked the notice. I find the landlord did not attend the hearing to support his reasons for ending the tenancy and I find insufficient evidence to support that he/she requires the unit for occupancy by them or a close family member.

For all of the above reasons, I set aside and cancel the Notice to End Tenancy dated September 2014 issued pursuant to section 49 of the Act. The tenancy is reinstated.

Conclusion:

The Application of the Tenant to set aside the Notice to End Tenancy is successful. The Notice dated September 20, 2014 is hereby cancelled and the tenancy is reinstated.

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 19, 2014

Residential Tenancy Branch

