



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1 - KINGS AVENUE APARTMENTS INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL

Introduction

The tenant applies to cancel a two month Notice to End Tenancy dated and posted to the tenant's door on February 25, 2015.

The Notice alleges that the landlord has necessary permits and approvals required by law to demolish the rental unit or repair the rental unit in a manner that requires the rental unit to be vacant.

Such grounds are lawful grounds to end a tenancy under s.49 of the *Residential Tenancy Act* (the "Act").

Issue(s) to be Decided

Does the relevant evidence presented at hearing show that the landlord has good grounds to end the tenancy?

Background and Evidence

The rental unit is a 19 unit apartment building. The landlord acquired it February 5, 2015.

The landlord is the limited company. The style of cause of this decision has been amended to reflect its correct corporate name. Mr. L. is an agent of the company and is not the landlord. Though he was named as a respondent in the application, he should not be a respondent in this proceeding.

The landlord's representative Mr. M. testified that the landlord plans a major renovation of the building including replacing all copper piping, converting the existing boiler to gas

heaters with meters for each apartment, redoing the roof, windows and decks, replacing kitchen and bathroom floors in the suites.

He says that the landlord posted the Notice to the tenant's apartment door and an equivalent Notice to all apartment doors in the building on February 25, 2015. He says that the applicant tenant is the only tenant in the building who has challenged the two month Notice.

The tenant showed, and it is not disputed, that an electrical permit for work on an electrical panel was issued on February 26, 2015.

Mr. M. indicates that the landlord is in the process of preparing professional plans for the renovation and expects to apply for a building permit in three weeks or so.

Analysis

The landlord has not filed any evidence or provided any details about any work to be done. Thus there is no basis upon which the tenant knows the particulars of the work planned. He has not been provided with particulars about whether the landlord planned to demolish the building or to renovate it. He has not been provided with the particulars of the work given verbally by Mr. M. at hearing and so he has had no basis upon which to determine whether the work planned by the landlord should reasonably require vacant possession of the apartment.

For this reason I would allow the tenant's application and cancel the Notice.

Section 49(6) of the *Act* provides:

- (6) A landlord may end a tenancy in respect of a rental unit if the landlord has all the necessary permits and approvals required by law, and intends in good faith, to do any of the following:
- (a) demolish the rental unit;
 - (b) renovate or repair the rental unit in a manner that requires the rental unit to be vacant;
 - (c) convert the residential property to strata lots under the *Strata Property Act*;
 - (d) convert the residential property into a not for profit housing cooperative under the *Cooperative Association Act*;
 - (e) convert the rental unit for use by a caretaker, manager or superintendent of the residential property;
 - (f) convert the rental unit to a non-residential use.

The landlord did not have "all the necessary permits and approvals required by law" before giving the Notice and for that reason the Notice is invalid.

Conclusion

The tenant's application is allowed. The two month Notice to End Tenancy dated February 25, 2015 is cancelled.

The tenant did not pay a filing fee.

This decision is rendered orally at hearing and 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: March 27, 2015

Residential Tenancy Branch

