



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes Tenant CNL
 Landlord OPL, FF

Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlord and the Tenant.

The Landlord filed seeking an Order of Possession and to recover the filing fee for this proceeding.

The Tenant filed to obtain an order to cancel the Notice to End Tenancy.

Service of the hearing documents by the Landlord to the Tenant was done by registered mail on July 17, 2015 in accordance with section 89 of the Act.

Service of the hearing documents by the Tenant to the Landlord was done by registered mail on July 16, 2015 in accordance with section 89 of the Act.

The hearing continued with both parties represented.

Issues to be Decided

Landlord:

1. Is the Landlord entitled to end the tenancy?

Tenant:

- 1 Is the Tenant entitled to an order to cancel the Notice to End Tenancy?

Background and Evidence

This tenancy started on September 1, 2003 and the last written tenancy agreement was completed on December 1, 2008 as a 6 month fixed term tenancy with an expiry date of March 31, 2009. There is a provision in the tenancy agreement to continue the tenancy on a month to month basis after March 31, 2009. Rent is \$840.50 per month payable in

advance of the 1st day of each month. The Tenant paid a security deposit of \$350.00 on September 1, 2003.

The Landlord said they issued a 2 Month Notice to End Tenancy for Landlord's Use of the Property dated June 24, 2015. The Notice to End Tenancy has an effective vacancy date of September 1, 2015. The Landlord said the reason on the Notice to End Tenancy is that the Landlords want to occupy the unit. The Landlord said the Tenant has not moved out and they are requesting an Order of Possession.

The Landlord continued to say the rental unit is owned by 4 sisters and they now want to occupy the unit themselves. As a result the Landlord requires the tenancy to end and the Tenant to move out.

The Tenant said this is his home since 2003 and he and his dog do not want to move. The Tenant said it is difficult to find a rental unit that is affordable on a pension that will accept pets. The Tenant said he would like to continue the tenancy. As well the Tenant said he has no evidence or reasons why the Notice to End Tenancy should be cancelled except that he does not want to move. The Tenant requested additional time to move if the Landlord is successful in ending the tenancy.

The Landlord said they understand the Tenant is in a difficult situation so they agreed to end the tenancy on October 15, 2015 to allow the Tenant more time to find a new rental unit. The Landlord requested an Order of Possession effective October 15, 2015.

The Tenant said he would be out of the unit prior to October 15, 2015 so there was no need for an Order of Possession.

The Parties agreed to end the tenancy on or before October 15, 2015.

The Landlord also requested to retain \$50.00 of the Tenant's security deposit to recover the filing fee for this proceeding.

Analysis

Section 49(3) of the Act states (3) A landlord who is an individual may end a tenancy in respect of a rental unit if the landlord or a close family member of the landlord intends in good faith to occupy the rental unit.

I accept the Landlord's Notice to End Tenancy for Landlord's Use of the Property as a Notice to End Tenancy for the owners/Landlords to occupy the property. Further the Tenant has no evidence and gave no testimony that would indicate the Notice to End Tenancy is not valid therefore; I find for the Landlord and I grant an Order of Possession with an effective vacancy date of October 15, 2015.

Further I dismiss the Tenant's application due to lack of evidence to dispute the Notice to End Tenancy and there is no grounds for the application. The Tenant's application is dismissed without leave to reapply.

As the Landlord has been successful in this matter, she is also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4), 67 and 72 of the Act to retain \$50.00 of the Tenant's security deposit in full payment of the filing fee.

Conclusion

An Order of Possession effective October 15, 2015 has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia.

The Tenant's application is dismissed without leave to reapply.

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: September 16, 2015

Residential Tenancy Branch