



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL

Introduction

This hearing dealt with the applicant's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act"), seeking to cancel a 2 Month Notice to End Tenancy for Landlord's Use of Property (the "2 Month Notice").

The applicant, J.H. (the "applicant"), the respondent R.G., (the "respondent"), the owners of the rental unit, the agent for the owners of the rental unit (the "agent"), and legal counsel for the respondent, owners of the rental unit, and the agent, attended the teleconference hearing. The hearing process was explained to the parties, the parties were affirmed, and an opportunity to ask questions was provided to the parties at the start of the hearing.

The applicant and respondent confirmed that they received the documentary evidence from the other party prior to the hearing and that they had the opportunity to review that evidence prior to the hearing. I find the applicant and respondent were served in accordance with the *Act*.

Preliminary and Procedural Matters

Submitted in evidence is a mutual agreement dated August 26, 2015, the file number of which has been referenced on the front page of this decision for ease of reference, between the respondent and the owners of the rental unit. The mutual agreement lists the respondent as tenant, and the owners of the rental unit as landlords, and includes an order of possession effective September 30, 2015 at 1:00 p.m.

Also submitted in evidence is a Supreme Court document filed in the Supreme Court of British Columbia Vancouver Registry on September 17, 2015 which orders a stay of the order of possession dated August 26, 2015, until the hearing of October 8, 2015, held before me.

Background and Evidence

The applicant testified that the respondent was not his landlord and was a “lead tenant” and then later stated that he was “acting like a landlord”. The applicant stated under oath that he began renting a room from the respondent who was the lead tenant on or about November 13, 2014.

The respondent testified that he is not a landlord and is actually a tenant who made a mistake in issuing a 2 Month Notice to the applicant. The owners of the rental unit testified that the respondent was a tenant, which the respondent agreed to during the hearing. The respondent confirmed that he did not have any authority under the *Act* to issue the 2 Month Notice.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

I find the applicant is an occupant and not a tenant under the *Act*. I find the respondent is a tenant and not a landlord under the *Act*, as the occupant had a tenancy agreement with the owners of the rental unit.

Based on the above, I find that the 2 Month Notice was issued by the tenant and not a landlord, and was served on an occupant and is invalid as a result. I find the 2 Month Notice is of no force or effect as a result.

I uphold and confirm the order of possession dated August 26, 2015 based on the mutual agreement between the respondent tenant and the owners of the rental unit. The order of possession dated August 26, 2015 applies to all occupants as well. I note the decision dated August 26, 2015 was not stayed by the Supreme Court of British Columbia.

The tenancy ended on September 30, 2015 at 1:00 p.m. based on the mutual agreement of the tenant and the owners of the rental unit.

Conclusion

The applicant's application is dismissed.

I uphold and confirm the order of possession dated August 26, 2015 based on the mutual agreement between the respondent tenant and the owners of the rental unit. The order of possession applies to the tenant and all occupants. I note the decision dated August 26, 2015 was not stayed by the Supreme Court of British Columbia.

This decision is final and binding on the parties, unless otherwise provided under the Act, 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: October 8, 2015

Residential Tenancy Branch

