



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, DRI, FF

Introduction

This was a hearing with respect to the tenant's application to cancel a two month Notice to End Tenancy for landlord's use. The hearing was conducted by conference call. The tenant and the landlord called in and participated in the hearing. The parties submitted and exchanged documentary evidence prior to the hearing

Issue(s) to be Decided

Should the Notice to End Tenancy for landlord's use dated September 1, 2015 be cancelled?

Background and Evidence

The rental unit is a house in Vancouver. The tenant began renting from the former owner in 2005. The landlord purchased the rental property in October, 2014. The landlord and the tenant entered into a new tenancy agreement for a fixed term ending October 31, 2015. The agreement stated that at the end of the term the tenancy will end and the tenant must move out of the rental unit. The tenant did not initial the box to acknowledge this term. The landlord gave the tenant a two month Notice to End Tenancy for landlord's use dated September 1, 2015. The Notice required the tenant to move out of the rental unit by October 31, 2015. The landlord also sent the tenant a new form of tenancy agreement for a further term of one year.

The tenant applied for dispute resolution to cancel the Notice to End Tenancy, however at the hearing he advised that he has now found other accommodation and he is in the process of moving. He intends to be moved out of the rental unit by tomorrow and spend the next few days cleaning the rental unit.

At the hearing I was advised by the landlord that there are other disputed with respect to the tenancy that will be the subject of a dispute resolution hearing in January. The parties took some time during the hearing to discuss the outstanding issues between them. They agreed to meet at the rental unit on a date in the following week to inspect

the rental unit and continue their discussion, with a view to resolving the outstanding issues between them.

Analysis

The tenancy agreement that commenced in October 2014 was not initialled by the tenant to signify that he acknowledged that he was required to move out at the end of the fixed term. I find that agreement did not require the tenant to move out at the end of the tenancy. The *Residential Tenancy Act* provides by section 49 (2) that a Notice to End Tenancy for landlord's must end the tenancy not earlier than two months after the Notice was given and on the day before the day in the month that rent is due under the tenancy agreement.

The landlord did not serve the Notice to End Tenancy until sometime after September 1st. The earliest date that the Notice to End Tenancy could be effective is November 30, 2015. Pursuant to section 53, Notices that purport to end a tenancy on an incorrect date will be automatically corrected to end the tenancy on the earliest date that complies with the required notice period. The Notice is therefore corrected to specify that the tenancy will end on November 30, 2015.

A landlord who serves a tenant with a Notice to End Tenancy for landlord's use is required under section 51 to provide the tenant with compensation equivalent to one month's rent. The tenant may withhold the last month's rent instead of receiving compensation from the landlord. The tenant has not paid rent for November based on the requirements of section 51.

Conclusion

The tenant is no longer disputing the Notice to End Tenancy and I find that the landlord is therefore entitled to an order for possession effective November 30, 2015. This order may be registered in the Supreme Court and enforced as an order of that court.

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 13, 2015

Residential Tenancy Branch

