



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KENSON REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL

Introduction

This hearing dealt with the tenant's application for dispute resolution, seeking to cancel a notice to end tenancy issued by the landlord for the landlord's use of the property. Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

Issues(s) to be Decided

Has the landlord validly issued the notice to end tenancy?

Background and Evidence

The tenant started in July 2014 for a fixed term of two years. Neither party filed a copy of the tenancy agreement. The landlord issued the tenant a two month notice to end tenancy, on October 22, 2015, to be effective on June 30, 2016. Again, neither party filed a copy of the notice to end tenancy

The parties stated that the reason the landlord gave the notice to the tenant is because the rental property was sold and the new owner intends in good faith to occupy the rental unit. The tenant disputed the notice in a timely manner, on the basis that he has a verbal agreement with the landlord to renew the two year term for another year at the end of the fixed term.

The landlord agreed that he had not filed any evidence to support his notice to end tenancy. I attempted to get the parties to come to an agreement but the parties were not willing to do so.

Analysis

In order to support the notice to end tenancy, the landlord must prove the reason for the notice to end tenancy.

Section 49 (5) of the *Residential Tenancy Act* states that a landlord may end a tenancy in respect of a rental unit if

- (a) The landlord enters into an agreement in good faith to sell the rental unit,
- (b) All the condition on which the sale depends have been satisfied, and
- (c) The purchaser asks the landlord in writing, to give notice to end the tenancy on one of the following grounds:
 - (1) The purchase is an individual and the purchaser or a close family member of the purchaser intends in good faith to occupy the rental unit

In this case the landlord stated that he served a notice to end tenancy on the tenant as the purchaser intended in good faith to occupy the rental unit. However, since I do not have the notice to end tenancy before me, I am unable to determine its validity. Also since the landlord did not file a copy of the request from the new owner regarding his intentions to occupy the rental unit, into evidence, he has not proven his case. Therefore I find that the notice to end tenancy must be set aside.

If the landlord intends to end the tenancy, he must serve another notice and provide proper documentation to support the reasons for the notice to end tenancy. The tenant may dispute the notice in a timely manner. Both parties must provide documentary evidence that they intend to rely on during the hearing, to support their claims.

Conclusion

The notice to end tenancy is set aside and the tenancy will continue.

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: December 22, 2015

Residential Tenancy Branch

