



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, OLC, LAT, FF

Introduction

This hearing dealt with the tenants' application for dispute resolution under the Residential Tenancy Act ("Act"). The tenant applied for an order cancelling the landlord's 2 Month Notice to End Tenancy for Landlord's Use of the Property (the "Notice"), an order requiring the landlord to comply with the Act, regulations, or tenancy agreement, an order authorizing the tenant to change the locks to the rental unit, and for recovery of the filing fee paid for this application.

The listed parties attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

At the outset of the hearing, the landlord confirmed that he had not submitted evidence and additionally, raised no issue regarding the tenants' evidence or application.

Thereafter the participants were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, respond each to the other, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure ("Rules"); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Are the tenants entitled to cancellation of the Notice?

Background and Evidence

The tenants submitted a copy of the written tenancy agreement showing that this tenancy began July 1, 2015, for a fixed term through July 1, 2016, and monthly rent is \$1150.00.

The landlord confirmed that he served the two tenants with the Notice on or about November 17, 2015, listing an effective move-out date of January 31, 2016. The Notice listed as reason that "The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse." The tenants submitted a copy of the Notice.

In response, the tenant submitted that they wanted to continue to live in the rental unit for the duration of the fixed term.

As to their other request, the tenant submitted that he would like to change the locks to the rental unit as the keys provided by the landlord do not work properly and that he has trouble unlocking and locking the doors.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

The Notice in question was issued pursuant to section 49(3) of the Act which provides "a landlord who is an individual may end a tenancy in respect of a rental unit if the landlord or close family member of the landlord intends in good faith to occupy the rental unit".

Section 49(2)(c) requires that if the tenancy agreement is a fixed term tenancy agreement, the effective move-out date cannot be earlier than the date specified as the end of the tenancy, and in this case, that date is July 1, 2016.

In this case, I find the landlord may not end the tenancy earlier than July 1, 2016, by operation of a 2 Month Notice. As a result, I find the landlord's 2 Month Notice to End Tenancy for Landlord's Use, dated November 17, 2015, is not valid and therefore has no force and effect. I order that the Notice be cancelled, with the effect that the tenancy will continue until ended in accordance with the Act.

As to the tenants' request to change the locks to the rental unit, I hereby authorize the tenants to change the locks, so long as the landlord is immediately provided a duplicate key. At the landlord's request, the tenants should be prepared to restore the original locks to the rental unit at the end of the tenancy.

As the tenants were successful with their application, I grant the tenants recovery of their filing fee of \$50.00, and I direct them to retain this amount from their next, or a future month's rent payment in satisfaction of this monetary award. The tenants should advise the landlord when this deduction is being made.

Conclusion

I grant the tenants' application seeking cancellation of the landlord's 2 Month Notice, and the Notice is hereby cancelled with the effect that the tenancy will continue until ended in accordance with the Act.

The tenants are authorized to change the locks to the rental unit, so long as the landlord is immediately provided a duplicate key.

The tenants are granted recovery of their filing fee of \$50.00.

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 11, 2015

Residential Tenancy Branch

