



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC CNC FF

Introduction

This hearing was scheduled to deal with (a) an application by the landlord for an order of possession; and (b) an application by the tenant for an order cancelling the landlord's 1 Month Notice to End Tenancy. Both parties requested recovery of the filing fee from each other. Both parties attended the hearing and had an opportunity to be heard.

Issue(s) to be Decided

Are the parties entitled to the requested orders?

Background and Evidence

This tenancy began in 2004. The original owner of the residential property when the tenancy first began was the mother of the current landlord. There were two rental units in the residential property when the landlord bought the property from her mother.

In October of 2015, the City of Surrey inspected the residential property and advised the landlord that the rental units in the house were illegal. By way of letter dated October 5, 2015 the City of Surrey advised the landlord, in part, as follows:

"A recent inspection has revealed that you do not occupy the property and that a secondary suite exists on the property....The illegal dwelling unit must be removed from the property which requires the following alterations:

- All cooking facilities must be removed from the illegal dwelling unit and any openings for these facilities must be wall-boarded over.
- The electrical breaker controlling the range receptacle must be removed and its spot blanked on the electrical panel.

We will conduct a follow-up inspection on January 15, 2016 at 11:00 a.m. to determine whether you have removed the illegal dwelling unit. If the illegal dwelling unit is not removed, further legal action will be taken.”

The letter from the City referred to just one suite but the landlord indicated that there had been two suites and that the other tenant had already moved out.

In response to the City's letter the landlord served the tenant with a 1 Month Notice to End Tenancy dated October 20, 2015. The Notice indicated that the rental unit had to be vacated to comply with a government order. The tenant disputed the Notice on October 28, 2015. The tenant explained that the reason she disputed the Notice was because she had not seen a copy of the government order herself. The landlord acknowledged that a copy of the City letter had not been included with the Notice to End Tenancy. However, the landlord did testify that a copy of the City letter was given to the tenant as part of the hearing package when it was personally served on her on December 17th although the tenant claims not to have received the City letter with that package either.

At the hearing, the tenant expressed her understanding that she now realized that the landlord did not have a choice in the matter of this eviction and that she would start trying in earnest to find a new residence.

Analysis

Based on the information before me regarding the order from the City of Surrey, I am satisfied that the landlord has provided sufficient evidence in support of the 1 Month Notice to End Tenancy dated October 20, 2015. Accordingly, I find that the landlord is entitled to an order of possession effective immediately in light of the fact that the Notice had an effective date of November 30, 2015. I make this finding despite the fact that the tenant claims not to have actually seen a copy of the City letter. It is my view that the landlord would have provided a copy of the letter to the tenant if she had asked for one and in any event the landlord is adamant that a copy of the City letter was provided to the tenant with the hearing package, a statement I am inclined to accept as true given the surrounding circumstances.

Conclusion

I grant the landlord an order of possession effective two days from the date of service. This order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I dismiss the tenant's application.

I order that the tenant reimburse the landlord for the \$50.00 cost of this application. This order may be filed in the Small Claims 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: January 04, 2016

Residential Tenancy Branch

