



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, NMD, FF

Introduction

This was a hearing with respect to the tenant's application to cancel a 10 day Notice to End Tenancy for unpaid rent and for a monetary award. The hearing was conducted by conference call. The tenant and the landlord called in and participated in the hearing. The landlord served two Notices to End Tenancy; the first, dated October 14, 2015, was a two month Notice to End Tenancy for landlord's use. The second, dated November 2, 2015 was a 10 day Notice to End Tenancy for unpaid rent. The tenancy has ended and the tenant has moved out pursuant to the Notice to End Tenancy for landlord's use. The sole issue on this application is the tenant's claim for compensation

Issue(s) to be Decided

Is the tenant entitled to a monetary award and if so, in what amount?

Background and Evidence

The rental unit is one of two rancher style houses on the rental property in Surrey. The tenant testified that the unit was advertised for rent she agreed to rent the unit and told the landlord that she wanted a one year tenancy agreement. The landlord prepared the tenancy agreement, but told her when she signed it on September 10, 2015 that he had made it a month to month tenancy, but he accepted 12 post-dated cheques from the tenant. The tenancy commenced on October 1, 2015. The monthly rent was \$1,100.00. The tenant moved in on October 3, 2015. She said that she received a notice to inspect the house on October 8, 2015. She asked the landlord why the inspection was taking place. He told her that it was being done at the request of his bank. The tenant said the inspection was disruptive and took the entire day.

The day after the inspection, the tenant discovered that the house was infested by mice and there were mouse droppings and mice in the house. She asked the landlord to deal with the problem but he did nothing.

The tenant testified that on October 14th, 11 days after she had moved in the landlord gave her a two month Notice to End Tenancy for landlord's use because the landlord

had sold the rental property and the purchaser instructed him to give the Notice because he intended to reside in the rental unit. The tenant testified that the landlord never told her that he was planning to sell the house. The Notice required the tenant to move out of the house by December 31, 2015. On October 23rd the tenant advised the landlord in writing that she would move out of the rental unit on December 1st. The tenant did not pay rent for November because she was entitled to receive one month's free rent pursuant to the Notice to End Tenancy, but on November 2, 2015 the landlord served her with a 10 day Notice to End Tenancy for unpaid rent. The tenant applied to cancel the Notice and she moved out December 1st. The tenant said that the landlord rented the unit to her under false pretences. She said that she has been put to great trouble, expense and inconvenience by the landlord; she applied for a monetary award to recover the cost of her moving expenses in the amount of \$300.00. The tenant did not submit receipts, but she testified that she hired and paid \$425.00 for the services of two men and a truck to moving her belongings from the rental unit.

The landlord testified at the hearing that when he rented the unit to the tenant he had not made plans to sell the property, but sometime after signing the tenancy agreement he decided to accept an offer to purchase the property and the purchaser required him to give the tenant a Notice to End Tenancy. The landlord said that he acted properly, in accordance with the provisions of the *Residential Tenancy Act* and denied that the tenant should be entitled to any compensation. The landlord submitted documents in support of a claim for unpaid utilities in the amount of some \$200.00, but the landlord's claim is not a matter that is before me on this hearing.

In a letter to the tenant dated October 22, 2015, the landlord said:

On the date of signing, there was no Sale agreement and I was not sure of selling the Property and the "2 Month Notice to end Tenancy", ends on 31st December, 2015.

Therefore, all January 1st 2016 onwards – Cheques will be returned and find them enclosed herewith.

You are liable for the November and December rents and therefore, the Cheques for the same would remain with me, unless I receive cash for rent on or before the due dates.

Analysis

The landlord's position is that he has complied with the *Residential Tenancy Act* and followed the provisions with respect to ending a tenancy by giving a two month Notice to End Tenancy for landlord's use. He said that he had not decided to sell the property when he signed the tenancy agreement. The landlord did not say whether or when he had listed the rental property for sale, but, based on his October 22, 2015 letter to the tenant, I find that the landlord was contemplating the sale of the rental property when he

signed the tenancy agreement. The tenant told the landlord that she was seeking a stable tenancy that would continue for at least a year. The landlord did not sign a fixed term tenancy agreement, but I find that he should have advised the tenant that the property would be offered for sale and he could not guarantee that a purchaser would continue her tenancy.

The tenant had only 11 days of occupancy before the landlord gave notice to end her tenancy. Based on my finding that the landlord was contemplating a sale of the property when he signed the tenancy agreement and that he had a duty to warn the tenant of that fact, but failed to do so, I find that the landlord should be responsible for the tenant's modest moving costs as claimed, in addition to the statutorily mandated compensation equivalent to one month's rent.

Conclusion

I allow the tenant's claim and award her moving costs in the amount of \$300.00. The tenant is entitled to recover the \$50.00 filing fee for this application for a total award of \$350.00 and I grant her an order under section 67 in the said amount. This order may be registered 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 06, 2016

Residential Tenancy Branch

