



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FF

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. The tenant also applied for the recovery of the filing fee.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The landlord acknowledged receipt of evidence submitted by the tenant. Both parties gave affirmed testimony.

Issues(s) to be Decided

Has the landlord validly issued the notice to end tenancy and does the landlord have the necessary permits required by law?

Background and Evidence

The tenancy started on September 10, 2015 for a fixed term of six months. A tenancy agreement was filed into evidence. The tenancy would continue as a month to month tenancy at the end of the fixed term. The monthly rent is \$725.00 payable on the first of each month.

On November 30, 2015 the landlord served the tenant with a two month notice to end tenancy for landlord's use of property. The effective date of the notice is January 31, 2016.

The reason the landlord gave the notice to the tenant is described as, the landlord has all necessary permits and approvals required by law to demolish or repair the rental unit in a manner that requires the unit to be vacant. The tenant disputed the notice in a timely manner.

During the hearing, the landlord testified that he had hired a contractor to carry out the repair work and that the contractor had informed him that for the scope of the work to be done, permits were not required. The landlord agreed that he did not have any permits for the repair work he intended to carry out.

Analysis

The Act requires permits and approvals required by law, to be obtained prior to the landlord issuing the notice to end tenancy for landlord's use of property. In this case the landlord agreed that he had not obtained any permits prior to issuing the notice to end tenancy for landlord's use of property.

In addition, the tenancy was a fixed term tenancy which would end on March 10, 2016. Pursuant to section 49(2)(c) of the *Residential Tenancy Act*, the landlord may not serve a notice to end tenancy for landlord's use of property to be effective on a date that is prior to the end date of the fixed term.

Therefore, I find that the notice to end tenancy must be set aside. Since the tenant has proven her case, she may recover the filing fee from a future rent.

Conclusion

The notice to end tenancy is set aside and the tenancy will continue. The tenant may make a onetime deduction of \$50.00 from a future rent.

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 29, 2016

Residential Tenancy Branch

