



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant for an order that the landlords comply with the *Act*, regulation or tenancy agreement.

The tenant attended the hearing and gave affirmed testimony. However, the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and no one for the landlords attended. The tenant testified that the landlords were served with the Tenant's Application for Dispute Resolution and notice of this hearing by registered mail on December 3, 2015 and has provided a copy of a Canada Post cash register receipt bearing that date as well as a Registered Domestic Customer Receipt issued by Canada Post. I am satisfied that the landlords have been served in accordance with the *Residential Tenancy Act*.

Issues to be Decided

Has the tenant established that the landlords should be ordered to comply with the *Act*, regulation or tenancy agreement, and more specifically with respect to ending the tenancy?

Background and Evidence

The tenant testified that this month-to-month tenancy began on August 15, 2015 and the tenant still resides in the rental unit. Rent in the amount of \$650.00 per month is payable on the 15th day of each month and there are no rental arrears. At the outset of the tenancy the landlords collected a security deposit from the tenant in the amount of \$200.00 which is still held in trust by the landlords, and no pet damage deposit was collected. The rental unit is a basement suite of a house and the landlords reside in the upper level, but are rarely there.

On November 15, 2015 one of the landlords personally handed to the tenant a letter dated November 10, 2015 requesting that the tenant vacate the rental unit as soon as possible, stating that the rental unit is not suitable for the tenant's needs and the home has been listed for sale. A copy of the letter has been provided, and it also states: "Sorry to say again, but this is your eviction notice to vacate the suite ... as soon as possible."

The tenant seeks to cancel that eviction notice and seeks an order that the landlords comply with the *Act* by refraining from giving notices that don't comply with the *Act*.

Analysis

The *Residential Tenancy Act* sets out how a tenancy ends, and providing a letter demanding that the tenant move out is not one of the methods permitted.

A landlord may end a tenancy if the rental unit sells, however, the landlord must serve the tenant with a 2 Month Notice to End Tenancy for Landlord's Use of Property in the form provided on the Residential Tenancy Branch website. The landlords may not serve the notice on the tenant until all conditions for the sale of the property have been satisfied, and the purchaser gives the landlords notice in writing that the purchaser requests the landlords to end the tenancy so that the purchaser or a close family member (mother, father or child) of the purchaser or the purchaser's spouse intends in good faith to occupy the rental unit. Further, the notice must be given before the day rent is payable under the tenancy agreement, and the effective date of vacancy must not be sooner than 2 months after it was given. In this case, since rent is payable on the 15th of each month, the notice must be given before the 15th and must be effective on the 14th of the month 2 months later.

Where a landlord ends a tenancy for landlord's use of property, the landlord is also obligated to provide to the tenant the equivalent of one months rent. That is often done by collecting no rent for the final month of the tenancy. However, once the notice has been served on the tenant, the tenant may give 10 days notice to the landlord to vacate earlier, and must pay rent to the effective date of the tenant's notice, and the landlord is still obligated to provide the equivalent of one months' rent to the tenant.

It is clear in the circumstances that the landlords are not aware of the requirements of the *Residential Tenancy Act* as set out above. I find that the notice given by the landlords is not enforceable and is of no force and effect, and I hereby cancel it. The tenancy continues, and I order the landlords to comply with the *Residential Tenancy Act*.

Conclusion

For the reasons set out above, I hereby order the landlords to comply with the *Residential Tenancy Act*, by only issuing notices to end the tenancy that comply with the *Act* and the regulations. The notice to end the tenancy dated November 10, 2015 given by the landlords is hereby cancelled and the tenancy continues.

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 26, 2016

Residential Tenancy Branch

