



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1226 Capital Corp.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL FF

Introduction

This hearing dealt with an application by the tenant for an order cancelling the landlord's 2 Month Notice to End Tenancy dated October 29, 2015. The tenant also requested recovery of the filing fee for this application. Both parties attended the hearing and had an opportunity to be heard.

Issue(s) to be Decided

Is the tenant entitled to an order cancelling the landlord's 2 Month Notice?

Background and Evidence

This tenancy began in August 2007. The rent is \$859 due in advance on the first day of each month. The rental unit is a one bedroom on the first floor of the 16 unit building. The current landlord acquired the residential property on September 1, 2015. On October 29, 2015 the landlord served the tenant with a 2 Month Notice to End Tenancy for landlord's use. The use indicated on the Notice was 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. On November 11 or 12, 2015 the tenant retained an advocate from North Shore Community Resources to assist her with the situation surrounding the 2 Month Notice. The advocate helped the tenant complete and file an Application for Dispute Resolution on November 12, 2015.

Subsequently, the tenant sent an email to the landlord dated December 9, 2015 stating as follows:

"I would like to inform you that I will be leaving this Unit 102 –, North Vancouver, BC at the end of February 2016. The reason why, it is hard to find a place during this time. Your kind understanding will be much appreciated thanks. Sincerely, ET"

The landlord testified that they then replied to the tenant's email saying that they received her Notice and asked her to let them know what she was doing about the arbitration. The landlord testified that the tenant then only responded "thank you".

The tenant's advocate then explained that the tenant gave the Notice without first getting her advice and that it was only after it had been sent that the advocate saw it. The advocate argued that the tenant's Notice was "not valid". The advocate stated that it was not the tenant's intention to give notice but rather to request an extension of the 2 Month time frame.

In response, the landlord argued that the tenant's Notice was and is valid. The landlord argued that the tenant was represented and had had plenty of time to get advice on the issue of her Notice. The landlord stated that the tenant's Notice is "clear and simple regardless of anything else" and that she gave "clear notice to end" the tenancy.

The parties exchanged evidence packages on December 22, 2015 and January 5, 2016.

Analysis

The tenant has challenged the landlord's 2 Month Notice saying that the landlord's good faith has been called into question in issuing this Notice. In support of this allegation the tenant pointed to several things. First, she noted that three long standing tenants in the building were served with 2 Month Notices all at the same time when there were already three vacant units in the building. The tenant also pointed to the fact that the landlord provided no documentary evidence as to who in fact was moving into the rental unit.

However, with all due respect to the tenant and her advocate, any questions surrounding the landlord's conduct in issuing this 2 Month Notice were, in my view, no longer relevant once the tenant gave the landlord her December 9, 2015 Notice to End Tenancy. I agree with the landlord that the tenant had representation at the time she gave the Notice and had had time to confer with her advocate about her Notice if she had so desired. I find that the tenant's Notice was valid and was not a request for an extension.

Conclusion

The tenant's application is dismissed.

I also dismiss the tenant's request to recover the filing fee from the landlord for this application.

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

