



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, OLC

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

1. An Order cancelling a notice to end tenancy - Section 49; and
2. An Order for the Landlord's compliance.

On March 26, 2016 the Tenant amended the application to include the following order:

3. A Monetary Order for compensation - Section 67.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions. The Landlord confirmed receipt of the amended application. The Tenant stated that she moved out of the unit and no longer seeks a cancellation of the notice to end tenancy. As the tenancy has ended and as the claim for the Landlord's compliance is only relevant to an ongoing tenancy I dismiss the claim for such compliance and for cancellation of the notice.

Issue(s) to be decided

Is the Tenant entitled to compensation?

Background and Evidence

There is no written tenancy agreement. The tenancy started on September 15, 2015. At the outset of the tenancy the Landlord collected \$500.00 as a security deposit.

The Tenant states that monthly rent of \$1,100.00 was payable in installments: half on the 1st and half on the 15th of each month. The Landlord states that the Tenant was told that rent was payable on the 1st of each month but that the Tenant refused to pay all the rent on the 1st.

There is no dispute that on February 16, 2016 the Tenant was given a two month notice for landlord's use (the "Notice"). Neither Party provided a copy of the second page of the Notice. The Parties agree that the reason indicated on the Notice was that the Landlord was going to occupy the rental unit. The Parties agree that the Notice included a handwritten note beside the stated reason indicating that the unit was also to be sold. The stated effective date of the Notice is April 16, 2016. The Tenant moved out of the unit on March 15, 2016.

The Landlord states that the unit was just put on sale a week ago and that it was not put on sale before the Notice was given as the Landlords had to complete work on the unit and make it ready for sale.

There is no dispute that the Landlord paid the Tenant the one month rent compensation prior to the end of the tenancy. The Tenant seeks compensation, including moving expenses, for having to move out of the unit and for the Landlord not acting in accordance with the Notice.

Analysis

Section 49 of the Act provides that a landlord may end a tenancy for a purpose, two of which are as follows:

- if the landlord or a close family member of the landlord intends in good faith to occupy the rental unit; or
- if the landlord enters into an agreement to sell the unit and, inter alia, the conditions for sale have been satisfied.

Section 68 of the Act provides that a notice that does not comply with the Act may be amended.

Although the Tenant originally disputed the Notice, I accept that the Tenant changed her mind and was then entitled to rely on the Landlord having ended the tenancy in good faith. The Landlord however could only end the tenancy for one purpose. By adding the sale reason in handwriting, I find that the Landlord provided a notice that was not in compliance with the Act. Even if the reason for ending the tenancy was to place the unit for sale, this reason is not in accordance with the Act as the sale had to have been completed before the Notice could be served. In order to resolve the contradiction created by the Landlord's use of two reasons, one of which is not valid, I amend the Notice to remove the invalid handwritten reference to the sale of the unit leaving only one reason: that the landlord or a family member of the landlord intends to occupy the unit.

Section 51 of the Act provides that if the rental unit is not used for the stated purpose for at least 6 months beginning within a reasonable period after the effective date of the notice, the landlord must pay the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement. As the Landlord placed the unit for sale before the effective date of the Notice I find that the Landlord did not reside in the unit as stated in the Notice for any period after the effective date of the Notice. As a result I find that the Tenant is entitled to compensation of **\$2,200.00**. As the Tenant was compensated with the equivalent of one month's rent for the Landlord's ending of the tenancy, I find that the Tenant is not entitled to any further compensation for having to move out of the unit.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$2,200.00**. If necessary, 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: April 15, 2016

Residential Tenancy Branch