



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 2415 West 4th Holdings Lt
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL, FF

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 allowing more time to make an application to dispute a notice to end tenancy - Section 66
2. An Order cancelling a notice to end tenancy - Section 49; and
3. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Are there exceptional circumstances that prevented the Tenant from applying to dispute the notice to end tenancy within the time allowed?

Does the notice to end tenancy have merit?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The tenancy started in October 2013. Rent of \$1,095.00 is payable on the first day of each month.

On April 27, 2016 the Landlord served the Tenant in person with a two month notice to end tenancy for landlord’s use (the “Notice”). The Notice carries an effective date of June 30, 2016. The Notice sets out the reason for its issuance: The landlord has all the necessary permits and

approvals required by law to demolish the rental unit, or renovate or repair the rental unit in a manner that requires the rental unit to be vacant.

The Tenant made its application to dispute the Notice on May 13, 2016. The Tenant states that it made its application one day late as the Tenant miscounted the days due to the stress of having been in a dispute resolution proceeding a day prior to the deadline. The Tenant states that the emotional distress experienced by the dispute caused the miscount.

The Landlord states that it has the necessary permits for tearing down the walls and ceiling of the kitchen and bathroom and to replace the water pipes in preparation for further renovations to replace the kitchen and bathroom fixtures, among other items. The permits also include removal of portions of the hallway walls and flooring. The Landlord estimates that it should talk about 3 months for this portion of the work and another 3 months for the remaining work. It is noted that the permits for the remaining work are issued after the date of the issuance of the Notice.

The Landlord states that the timeframe in relation to the two permits issued in advance of the Notice could be lengthened depending on issues that may arise such as the discovery of hazardous materials. The Landlord states that no other units in the building are available as they are all under renovation.

The Tenant states the the contractors have said that work would be done mid-July including the tiling and plumbing and that the work on the other units began in May when most of the units were stripped. The Tenant states that they are able to accommodate the Landlord for three months for the renovations.

The Tenant states that they have contingency plans in place to move out of the unit but would need more time to the middle of July 2016. The Landlord states that the Tenant is already moved out of the unit and only the roommate remains.

Analysis

Section 66 of the Act provides that a time limit established by this Act may be extended only in exceptional circumstances. Although I can accept that the Tenant was emotionally distressed

by attending a hearing and that this caused a miscount, this evidence does not account for the several days prior to the hearing and I cannot accept that the preparation time was so stressful that a count of days could not have been made immediately upon receipt of the Notice or within a few days of its receipt. As such I find that the Tenant has not provided evidence of exceptional circumstances that would allow the extension of the time limit. As I also consider that the Notice has some merit, I find that I must dismiss the Tenant's application to dispute the Notice in its entirety.

Section 55(1) provides that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, an order of possession must be granted to the landlord if, the notice to end tenancy complies in form and content and the tenant's application is dismissed. Section 52 of the Act provides that a notice to end tenancy from a landlord must be in writing and must be signed and dated by the landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

As the Notice complies in form and content and as the Tenant's application has been dismissed I find that the Landlord is entitled to an order of possession. Accepting that the Tenant has moved out at least the majority of her belongings I grant an Order of Possession to the Landlord effective 1:00 p.m. on June 30, 2016, the effective date of the Notice.

Conclusion

The application is dismissed. **I grant** an Order of Possession to the Landlord effective 1:00 p.m. June 30, 2016.

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: June 17, 2016

Residential Tenancy Branch

