



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Tenant's application: CNL, MT

Landlord's application: OPL

Introduction

This was a hearing with respect to applications by the tenant and by the landlord. The tenant applied to cancel a two month Notice to End Tenancy for landlord's use. The landlord applied for an order of possession pursuant to the Notice to End Tenancy. The hearing was conducted by conference call. The landlord called in and participated in the hearing. The tenant did not call in and did not participate although this was a hearing with respect to her application and despite having been served with the landlord's application and Notice of Hearing sent on June 28, 2016 and received by the tenant on June 30, 2016.

Issue(s) to be Decided

Should the Notice to End Tenancy dated May 23, 2016 be cancelled?

Is the landlord entitled to an order of possession pursuant to the Notice to End Tenancy?

Background and Evidence

The rental unit is a manufactured home on a large rural property. The tenant has lived in the rental unit for a number of years. The landlord purchased the rental property several years ago, subject to the existing tenancy.

On May 31, 2016 the landlord served the tenant with a 2 month Notice to End Tenancy dated May 23, 2016. In a letter submitted as evidence, the tenant acknowledged that she received the Notice to End Tenancy on May 31st. The stated reason for the Notice

to End Tenancy is that the rental unit will be occupied by the landlord or a close family member. The landlord testified at the hearing that he and his family need to move from their present residence into the rental unit. In her written materials, the tenant said she has been trying to find other accommodation, but has been unable to find a suitable place that she can afford. She said that she needs more time to secure a new place to live.

The landlord said that he must move out his current residence and needs to have possession of the rental unit in order to perform work to get it ready for occupancy for himself and his family. The landlord requested an order of possession pursuant to the Notice to End Tenancy.

Analysis

The evidence established that the tenant received the Notice to End Tenancy on May 31, 2016. She filed her application to cancel the Notice to End Tenancy on June 7, 2016. The tenant did not attend the hearing of her application, although the hearing was kept open for more than 10 minutes after the scheduled start time. In the absence of an appearance by the tenant, her application for dispute resolution is dismissed without leave to reapply.

The landlord testified that he intends to occupy the rental unit as living accommodation for himself and his family. I have not been provided with any evidence to contradict his testimony.

Section 55 of the *Residential Tenancy Act* provides as follows:

- 55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if
- (a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and
 - (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

The Notice to End Tenancy given by the landlord complies with the requirements of the *Residential Tenancy Act*. I have accepted that the landlord intends in good faith to occupy the rental unit. The tenant's application to cancel the Notice to End Tenancy has been dismissed and I grant the landlord an order of possession effective July 31, 2016 after service on the tenant as requested in this application. This order may be filed in the Supreme Court and enforced as an order of that court.

Conclusion

The landlord's application for an order of possession had been granted the tenant's application to cancel the Notice to End Tenancy has been dismissed without leave to reapply.

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: July 14, 2016

Residential Tenancy Branch