



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Tenants' application: CNL, MNDC, FF, O

Landlords' application: OPL, FF

Introduction

This was a hearing with respect to applications by the tenants and by the landlords. The hearing was conducted by conference call. The tenants and the landlords called in and participated in the hearing. The parties exchanged documentary evidence before the hearing and they acknowledged receipt of the applications sent by the other parties. The tenants applied to cancel a two month Notice to End Tenancy for landlord's use and they requested a monetary order. The landlords applied for an order of possession pursuant to the two month Notice to End Tenancy.

Issue(s) to be Decided

Should the Notice to End Tenancy dated June 29, 2016 be cancelled?

Are the landlords entitled to an order of possession pursuant to the Notice to End Tenancy?

Are the tenants entitled to a monetary award and if so, in what amount?

Background and Evidence

The rental unit is a main floor suite in the landlord's house in Vancouver. The landlords and their family live in the upstairs portion of the house and there are two suites on the main floor.

After an earlier Residential Tenancy Branch hearing on June 29, 2016, the landlord severed an two month Notice to End Tenancy dated June 29, 2016. The Notice was served by mail sent on July 1, 2016 and also by placing a copy beneath the door of the

rental unit. The tenants acknowledged receiving the Notice to End Tenancy and on July 18, 2016 they applied to dispute the Notice. The stated reason for the Notice to End Tenancy was that the rental unit will be occupied by the landlord or the landlord's close family member. The Notice required the tenants to move out of the rental unit by August 31, 2016, although because the Notice was not served before July 1, 2016, the earliest date that the Notice to End Tenancy could be effective is September 30, 2016.

The landlords testified that they occupy the upper portion of the rental property with their two daughters aged 9 and 3 and the landlord's parents also stay with them on occasion. The landlords testified that the parents of the female landlord intend to move into the rental unit and live in the unit with daughter, son-in-law and grandchildren as soon as the unit becomes available.

The landlord testified that the tenants have not paid rent for September and the landlord has served the tenants with a 10 day Notice to End Tenancy for unpaid rent. The tenants testified that they have withheld rent pending the outcome of this proceeding because if the Notice is upheld, they will be entitled to one month free of rent. They testified that if the Notice is dismissed they will immediately pay rent for September.

Analysis

During the hearing the parties were given an opportunity to consider a settlement of the matters in dispute in this proceeding. The tenants testified that they were willing to consider moving, but they were seeking more time to secure other accommodation and wished to have the tenancy continue until October 31, 2016 in order to find other accommodation.

The landlords agreed to allow the tenants to reside in the rental unit until October 31, 2016, provided the tenants promptly pay the rent for September. The tenants requested that the landlords refrain from serving or giving them notices or messages under the door of the rental unit for the remainder of the tenancy. The tenants also complained that they have been deprived of hot water during the tenancy and requested that the landlords ensure that the tenants have an adequate supply of hot water for the remainder of the tenancy.

Conclusion and settlement

The landlords and the tenants agreed that the tenancy will end October 31, 2016 pursuant to the two month Notice to End Tenancy for landlords' use. Pursuant to the agreement of the parties I grant the landlord an order of possession effective October 31, 2016 after service on the tenants. This order may be filed in the Supreme Court and enforced as an order of that court.

The tenants will pay the September rent to the landlords by September 8, 2016 and upon payment the 10 day Notice to End Tenancy for unpaid rent will be void and of no force or effect. The tenants' application for a monetary award is dismissed.

The landlords will ensure that the tenants have an adequate supply of hot water for the remainder of the tenancy and the landlord will refrain from delivering notices by placing them under the door of the rental unit.

The tenant's security deposit will be dealt with in accordance with the provisions of the *Residential Tenancy Act* when the tenancy has ended.

If the landlords do not use the rental unit for the purpose stated in the Notice to End Tenancy, the tenants will be at liberty to apply for compensation pursuant to section 51 of the *Residential Tenancy Act*.

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: September 07, 2016

Residential Tenancy Branch