



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, OLC, FF

Introduction

This was a hearing with respect to the tenant's application to cancel a Notice to End Tenancy for landlord's use and for other relief. The hearing was conducted by conference call. The tenant and the landlord called in and participated in the hearing

Issue(s) to be Decided

Should the Notice to End Tenancy dated July 27, 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 basement suite in the landlord's house in Burnaby. There was a previous hearing with respect to the tenancy in July, 2016. In the earlier proceeding the tenant applied to cancel a Notice to End Tenancy for landlord's use of property. In a decision dated July 5, 2016 the arbitrator found that the landlord failed to serve the proper form of Notice to End Tenancy and the tenant's application to cancel the Notice to End Tenancy was granted.

On July 27, 2016 the landlord personally served the tenant with a two month Notice to End Tenancy for landlord's use. The Notice was dated July 27, 2016 and it required the tenants to move out of the rental unit by September 30, 2016. The reason for the Notice to End Tenancy was that the landlord has all the necessary permits and approvals required by law to demolish the rental unit, or renovate or repair the unit in a manner that requires the rental unit to be vacant. The landlord testified that the house is to be demolished and a new house built on the property. He said that the upstairs tenants have already moved out of the rental property. The landlord provided a copy of

the demolition permit issued by the City of Burnaby on July 19, 2016 that authorizes the demolition of the rental property.

The tenant disputed the Notice to End Tenancy. He submitted that when the landlord gave the earlier Notice to End Tenancy he said that he or a family member intended to live in the rental unit. The tenant also said that he has been unable to find affordable housing for himself and his family and requested more time to find other housing. The tenant testified that he has paid rent for September in the amount of \$922.40. The tenant also paid a security deposit of \$450.00 at the start of the tenancy in September, 2014. The tenant asked for more time to locate other accommodation.

The landlord said that the upstairs tenants have already moved out of the rental unit. He has made arrangements to disconnect utilities and his contractor has been scheduled to perform the demolition work. He needs to have the house demolished as soon as possible in order to pour concrete foundations while the weather is suitable. The landlord testified that he is not able to extend the effective date of the Notice to End Tenancy. The landlord did promise at the hearing to immediately refund the tenant the sum of \$922.40 paid for September rent and refund the \$450.00 security deposit to provide the tenant with some funds to assist with moving costs.

Analysis

Section 49 (6) of the *Residential Tenancy Act* provides that a landlord may end a tenancy if he has all the necessary permits and approvals required to demolish the rental unit. There is no dispute that the landlord has the necessary permits and does intend to demolish the unit. Unfortunately hardship is not a basis upon which I can grant relief to an affected tenant. The tenant has not provided evidence to establish that the landlord is acting in bad faith or that the Notice to End Tenancy should be cancelled for some other reason. The tenant's application to cancel the Notice to End Tenancy is dismissed without leave to reapply.

Section 55 (1) of the *Residential Tenancy Act* provides that:

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 tenant's application has been cancelled. The Notice to End Tenancy given by the landlord is in the proper form and he has the necessary permits: I therefore grant the landlord an order of possession effective September 30, 2016 after service on the tenants. This order may be filed in the Supreme Court and enforced as an order of that court.

Conclusion

The tenant's application has been dismissed. The landlord has been granted an order of possession.

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 22, 2016

Residential Tenancy Branch