



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0716670 B.C. Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL

Introduction

This was a hearing with respect to the tenants' application to cancel a two month Notice to End Tenancy for landlord's use. The hearing was conducted by conference call. The landlord's representative called in and participated with the assistance of a translator. The named tenant called in and participated in the hearing. The landlord and the tenant exchanged documentary evidence before the hearing each party acknowledged that they have received the documentary evidence submitted by the other party,

Issue(s) to be Decided

Should the Notice to End Tenancy dated July 6, 2016 be cancelled?

Background and Evidence

The rental unit is an apartment in a small building in the downtown eastside of Vancouver. The landlord operates a commercial business in premises on the ground floor of the rental property. The upper two floors of the rental property contain apartments rented for residential use by the corporate landlord.

The landlord served the tenants with a two month Notice to End Tenancy dated July 6, 2016. The Notice to End Tenancy required the tenants to move out of the rental unit by September 30, 2016. The landlord is a corporation. The stated reason for the Notice is that the rental unit will be occupied by the landlord or the landlord's spouse or close family member.

At the hearing the landlord's representative testified that he is owner and director of the corporate landlord. He said that he is 72 years old and he operates a commercial business on the ground floor of the rental unit. The landlord's representative said that he intends to sell his own home and wishes to move into a smaller place to live. The landlord's representative said there are four apartments in the rental property. He said that he wants to move with his wife into the two bedroom suite occupied by the tenants. The tenancy began on December 1, 2013. The current monthly rent is \$605.00 and the tenants paid a security deposit of \$290.00 at the start of the tenancy.

The landlord's representative submitted a copy of a listing agreement for the sale of his personal residence. He did not provide copies of the evidence to the tenants, claiming that it was personal information provided only to the arbitrator. I have declined to consider the evidence or attach any weight to it because it was not provided to the tenants.

The landlord submitted a large quantity of documentary evidence that would appear to be given in support of submissions that the landlord has grounds to end the tenancy for cause. The landlord submitted that the tenants are hoarders and have accumulated an excessive amount of goods, including combustible materials in the rental unit. He said the unit is cluttered and submitted notices from the City of Vancouver fire inspector as well as photos of the interior of the rental unit to show that the rental unit and outside areas are cluttered with the tenants' belongings. The landlord claimed that he feels that his property and life are being threatened by the tenants. He also claimed that they are improperly renting out a room to guests and improperly using the rooftop of the building which does not form part of the rental unit.

The tenant testified that he has been a tenant since 2013. When the landlord's representative showed the property to him he used the roof deck outside the rental unit as a rental feature and included rooftop furniture from the previous tenants.

The tenant said that the photos submitted by the landlord do not reflect the current condition of the rental unit. He said they were taken in 2015 at the time of a City inspection and the rental unit is not in the condition depicted in the pictures. The tenant testified that the rental property is currently for sale and being marketed to prospective purchasers. The tenant testified that he regularly sees the landlord's representative showing the property to potential buyers. The tenant said it is unlikely that the landlord intends to move from his home to a small 600 square foot apartment, especially when the property is being offered for sale. The tenant referred to a previous dispute resolution proceeding when the landlord attempted unsuccessfully to evict the tenants for cause.

The tenant said the rental property is 60 years old and properties surrounding the rental unit are being upgraded. The tenant submitted that it is more likely that the building will be sold and renovated or demolished. The tenant testified that the landlord's representative is also motivated by personal hatred of the tenant. The tenant said that the landlord's representative has recently been trespassing and entering the rental unit without notice or permission. He has also made unfounded reports to the police about the tenant's supposed illegal conduct. The tenant said that the elderly landlord has also attempted to provoke him into a physical fight, presumably to create grounds for eviction.

Analysis

I did not find the testimony of the landlord's representative to be convincing. He contended that he intends to move from his family home to a small dilapidated apartment in a rundown neighbourhood in Vancouver, while at the same time offering the rental property for sale. The landlord has submitted extensive evidence to establish what amounts to cause for ending the tenancy, but that is not the ground for the Notice to End Tenancy. The tenant submitted that the landlord's representative is acting in bad faith in giving the Notice to End Tenancy for landlord's use. The history of the tenancy and the past dispute resolution proceedings have satisfied me that the landlord's representative has other ulterior motives for seeking to end the tenancy for landlord's use and he has been attempting to end this tenancy on other grounds for several years. The landlord's representative has an acrimonious relationship with the tenant and this was apparent during the hearing.

I find that the landlord's representative does not intend in good faith to occupy the rental unit and I therefore order that the Notice to End Tenancy dated July 6, 2016 be and is hereby cancelled. I note as well that the landlord has stated an incorrect ground for the Notice to end the tenancy. The landlord is a numbered company; presumably it is a family corporation and the landlord's representative is the owner of all the voting shares of the corporation, but the landlord did not give the Notice to End Tenancy on the ground that a family corporation owns the rental unit and it will be occupied by an individual who owns the voting shares.

Conclusion

The tenants' application is allowed. The Notice to End Tenancy has been cancelled. The tenants did not pay a filing fee and I therefore do not award recovery of a filing fee.

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: October 5, 2016

Residential Tenancy Branch