



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Haven Management Co. DBA Haven Prop
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL, FF, MNDC, MT

Introduction

This is an amended application, brought by the tenant(s), requesting an Order canceling a Notice to End Tenancy that was given for landlord use, requesting a monetary Order in the amount of \$5332.08, and requesting recovery of the \$100.00 filing fee.

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All parties were affirmed.

Issue(s) to be Decided

First of all it is my decision that I will not deal with all the issues that the applicants have put on this application.

Section 2.4 of the rules of procedure states:

Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims, with or without leave to reapply.

In this case it is my finding that not all the claims on this application are sufficiently related to the main issue to be dealt with together.

I therefore will deal with urgent issue, which is the request to cancel a Notice to End Tenancy, and I dismiss the remaining monetary claim with liberty to re-apply.

Background and Evidence

This tenancy began on July 1, 2015, and is presently a month-to-month tenancy with a monthly rent of \$1900.00, due on the first of each month.

On August 22, 2016 the tenants were served with a two month Notice to End Tenancy for landlord use, stating that the landlord or the landlord's close family member would be occupying the rental unit.

The applicant/tenants testified that they believe this notice has been given in bad faith, as it was received shortly after they had sent a registered letter to the landlords asking them to remove their dump trucks from the property. They stated that they gave the registered letter on July 11, 2016, and the original two month Notice to End Tenancy was posted on their door sometime between July 22, 2016 and August 6, 2016.

The applicant/tenants testified that they believe that this notice was given in retaliation to the dispute over parking, and therefore ask that the Notice to End Tenancy be canceled.

The landlord testified that this Notice to End Tenancy has not been given in retaliation; it was given because the landlord's parents and children fully intend to move into the rental unit.

The landlord further testified that they originally had planned to rent the unit for one year and then decide whether to continue renting it; however when that year was up they decided that at this time there was a need for family members to move into the rental unit.

The landlord further pointed out that, when they receive the registered letter from the tenants requesting that they remove their vehicles, they did so, without any dispute and they fail to see how this is related to the Notice to End Tenancy.

The landlords are therefore requesting that the Notice to End Tenancy be upheld.

In response to the landlords testimony, the tenant stated that, although the landlords did remove their trucks, they believe the landlords are only moving family members into the rental unit so that they can get rid of the tenants and move their trucks back onto the property.

Analysis

It is my decision that the landlord has shown that the Notice to End Tenancy was given in good faith.

Good faith is an abstract and intangible quality that encompasses an honest intention, the absence of malice and no ulterior motive to defraud or seek an unconscionable advantage.

A claim of good faith requires honesty of intention with no ulterior motive. The landlord must honestly intend to use the rental unit for the purposes stated on the Notice to End the Tenancy.

Further if evidence shows that, in addition to using the rental unit for the purpose shown on the Notice to End Tenancy, the landlord had another purpose or motive, then that evidence raises a question as to whether the landlord had a dishonest purpose. When that question has been raised, the Residential Tenancy Branch may consider motive when determining whether to uphold a Notice to End Tenancy.

If the good faith intent of the landlord is called into question, the burden is on the landlord to establish that they truly intend to do what they said on the Notice to End Tenancy. The landlord must also establish that they do not have another purpose that negates the honesty of intent or demonstrate they do not have an ulterior motive for ending the tenancy.

In this case although the tenants allege that there is an ulterior motive related to the parking of vehicles on the property, I accept the landlords testimony that the reason the notice was given at this time is because it had been approximately one year since property had rented out, and in that time they had determined that there was a need for family members to move into the rental property.

It may seem suspicious to the tenants that they received the notice shortly after requesting that the landlords remove their dump trucks; however I accept the landlord's testimony that that was merely coincidental.

Further, after hearing the testimony from the landlord, I am convinced that the landlord fully intends to have family members move into the rental unit.

It is my decision therefore that I will not cancel the Notice to End Tenancy and this tenancy ends on October 31, 2016.

Conclusion

The application to cancel the two month Notice to End Tenancy, dated August 22, 2016, is dismissed and I have issued an Order of Possession to the landlords for 1:00 p.m. on October 31, 2016.

I further Order that the applicant/tenants bear the \$100.00 cost of the filing fee they paid for this application for dispute resolution.

As stated previously the monetary portion of this claim is dismissed with 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: October 04, 2016

Residential Tenancy Branch