



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FF, O

Introduction

This is an application brought by the tenant requesting an order canceling a Notice to End Tenancy that was given for landlord use, and requesting recovery of his \$100.00 filing fee.

Some documentary 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

The issue is whether or not to uphold or cancel a Notice to End Tenancy that was given for landlord use, and whether or not this is a residential tenancy, or rent to own agreement.

Background and Evidence

The applicant testified that he moved into this rental unit under a rent to own agreement, with the purchase price of the unit set at \$200,000.00.

The applicant further testified that the landlord agreed to allow him to do cleaning and repairs of the rental unit as partial payment of the \$200,000.00.

Applicant further testified that he did substantial cleaning and repairs and although the landlord has paid him for a portion of the work, the landlord still owes him \$7100.00 towards the renovations and cleanup.

The respondent testified that there was never any rent to own agreement for this rental unit and that the agreement was, that the tenant would be allowed to move into the rental unit and would be credited with two months free rent for doing the cleaning and repairs.

The respondent further testified that she agreed to pay \$20,000.00 for cleaning and repairs, either as credit towards the rent, or in payments to the applicant.

The respondent further testified that she does not even own the house, it belongs to her son and therefore there is no way she would enter into a rent to own agreement.

In response to the landlord's testimony the tenant testified that he disagrees with what the landlord says, and insist that there was a verbal rent to own agreement, and, although nothing was ever put in writing, the agreement was witnessed by a third-party.

Analysis

It is my finding that the applicant has not met the burden of proving that there was a rent to own agreement for this rental unit.

The burden of proving a claim lies with the applicant, and when it is just the applicant's word against that of the respondent that burden of proof is not met.

In this case, it is just the applicant's word against that of the respondent, and although the applicant alleges that there was a third-party witness to the agreement, the applicant did not provide any evidence from any third-party witness.

In the absence of any purchase agreement for this rental unit, it is my finding that this is a tenancy agreement with cleaning and repairs being done in lieu of rent, and under section 49 of the Residential Tenancy Residential Tenancy Act, a landlord is allowed to end a tenancy agreement for landlord use of the property.

I therefore will not cancel the Notice to End Tenancy and pursuant to section 55 of the Residential Tenancy Residential Tenancy Act, I have issued an Order of Possession to the landlord.

Conclusion

This application is dismissed in full without leave to reapply and I have issued an Order of Possession to the landlord that is enforceable two days after service on the tenant.

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 24, 2016

Residential Tenancy Branch