



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL

Introduction

This hearing was convened by way of conference call in response to the tenant's application to cancel a Two Month Notice to End Tenancy for landlord's use of the property.

The tenant and landlord attended the conference call hearing, and were given the opportunity to be heard, to present evidence and to make submissions. The tenant provided a copy of the first page of the Two Month Notice in documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure.

Issue(s) to be Decided

Is the tenant entitled to have the Two Month Notice to End Tenancy cancelled?

Background and Evidence

The parties agree that this month to month tenancy started on December 01, 2014. The tenant rents the basement suite and the landlord lives in the suite upstairs. Rent for this unit is \$500.00 per month due on the first of each month.

The landlord testifies that the tenant was served a Two Month Notice to End Tenancy for landlords Use of the Property (the Notice). The landlord testified the Notice has an incorrect date on it for the date it was signed by the landlord. The landlord testified that this date should be August 30, 2016. The Notice was served upon the tenant on that date in person. The landlord testified that he does not want to proceed with ending the tenancy and the tenant can vacate the rental unit when he gives notice or the parties can reach a mutual agreement to end the tenancy.

There was some confusion on behalf of the tenant when he was asked about his application to cancel the Notice. The tenant responded that he had not filed an application to cancel the Notice but wants more time to find somewhere else to live as his parents are arriving and he needs to find a two bedroom unit. The tenant testified that he was only provided with the first page of the Notice and does not know why the landlord wanted to end the tenancy as the landlord has given the tenant different reasons verbally.

Analysis

Having considered the evidence before me I find neither party has provided a second page of the Notice in documentary evidence. There is insufficient evidence provided to show both pages of the Notice were served upon the tenant or for what reason the landlord wanted to end the tenancy. In Order for a Notice to be valid it must be complete and the landlord has the burden of proof to ensure he not only serves the tenant with a complete Notice but must also include a complete Notice in evidence for the hearing.

Consequently, even though the tenant was confused as to what he had applied for, I find the tenant's application to cancel the Notice is upheld. The landlord is at liberty to serve the tenant with a new Two Month Notice in accordance with s. 49 of the *Residential Tenancy Act*.

The parties are also at liberty to sign a mutual agreement to end the tenancy as discussed at the hearing or the tenant may provide the landlord with one clear months

written notice to end the tenancy when the tenant decides to vacate the rental unit as discussed at the hearing.

Conclusion

The tenant's application is upheld. The Two Month Notice is cancelled and the tenancy will continue until legally ended.

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 26, 2016

Residential Tenancy Branch