



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Firesteel Properties Ltd. Inc. #0810238
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This is an application brought by the tenant(s) requesting an order canceling a Notice to End Tenancy that was given for landlord use of the property.

The applicant(s) testified that the respondent(s) were served with notice of the hearing by registered mail that was mailed on September 19, 2016; however the respondent(s) did not join the conference call that was set up for the hearing.

Pursuant to section 90 of the Residential Tenancy Act, documents sent by registered mail are deemed served five days after mailing and therefore it is my finding that the respondent(s) have been properly served with notice of the hearing and I therefore conducted the hearing in the respondent's absence.

All testimony was taken under affirmation.

Issue(s) to be Decided

The issue is whether or not to cancel or uphold a Notice to End Tenancy that was given for landlord use.

Background and Evidence

The tenants testified that on August 31, 2016 they were personally served with a two month Notice to End Tenancy that gave the following reason:

- All of the conditions for the sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this Notice because the

purchaser or a close family member intends in good faith to occupy the rental unit

The tenants further testified that they subsequently found out that the rental unit had not sold, and, in fact, the landlord had listed the rental unit for rent, and they have supplied a copy of the rental listing in their evidence package.

The tenants are therefore requesting that the Notice to End Tenancy be canceled and this tenancy be allowed to continue.

Analysis

In the absence of any testimony from the landlord it is my finding that there is insufficient evidence to support the landlords Notice to End Tenancy for landlord use.

As stated above, the Notice to End Tenancy stated that the rental unit had been sold and that the purchasers had requested that the landlord give a Notice to End Tenancy; however there's been no evidence presented to support that claim.

Further, I accept the tenant's testimony that the rental unit has been listed for rent, and I therefore find it very unlikely that there are new owners who plan to move into the rental unit.

Conclusion

Pursuant to section 62 of the Residential Tenancy Act the two month Notice to End Tenancy dated August 23, 2015 is hereby canceled and this tenancy continues.

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: November 08, 2016

Residential Tenancy Branch