



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Atira Womens Resource Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL

Introduction

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

A substantial amount of 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 to cancel or uphold a Notice to End Tenancy that was given for landlord use.

Background and Evidence

The parties testified that this is a month-to-month tenancy that began in April of 2012.

On September 27, 2016 the tenant was personally served with a two month Notice to End Tenancy giving the following reason:

- The landlord has all necessary permits and approvals required by law to convert the rental unit to a non-residential use.

The landlord testified that the building is going to be converted to supportive housing with 10 units having a maximum stay of 30 days, and the remaining 28 units having a maximum stay of six months.

The landlord further testified that the building is being made available to women coming out of detox, and they have signed a memorandum of understanding with BC housing to support this program.

The landlord further testified that there are actually no permits or approvals required by law to convert this unit to supportive housing.

The advocate for the tenant argued that, first of all, they do not believe that the landlords have all the permits and approvals in place to convert this building to non-residential use.

The advocate for the tenant further argued that the memorandum of understanding with BC housing wasn't even signed until after the Notice to End Tenancy was given, and therefore, she argues, that all approvals were not in place.

The advocate for the tenant further argued that the building is not being converted to non-residential use, and although she does not dispute the fact that it will be supportive housing, which is not covered under the Residential Tenancy Act, she does dispute the Notice to End Tenancy, because it is still a type of residential housing

In response to the arguments from the tenants advocate the landlord argued that supportive housing is excluded and not covered under the Residential Tenancy Act, and therefore this cannot be considered residential housing.

Analysis

First of all, I accept the landlord's testimony that no permits or approvals are required by law to convert this rental unit to supportive housing. The tenants advocate has argued that the landlord does not have the permits and approvals required in place; however the tenants advocate has provided no evidence to show that any permits or approvals are required by law.

The tenants advocate is also argued that, because the memorandum of understanding with BC housing was not in place at the time the Notice to End Tenancy was given, all approvals were not in place however it is my finding that there is no evidence to show

that the memorandum of understanding with BC housing was required by law to convert this rental unit into supportive housing.

Secondly, I do not accept the tenant's advocate's argument that this unit will still be used for residential purposes, and that it's just that the residential purpose will be supportive housing.

Although, technically, under a strict definition of residential, supportive housing might still be considered residential housing, as people are living in the units, however when a Notice to End Tenancy is given under the Residential Tenancy Act, we must look at the definitions of a residential tenancy in the Residential Tenancy Act, to determine whether it would be considered residential housing under the Residential Tenancy Act.

In the definitions under section 1 of the Residential Tenancy Act we find the following:

"rental unit" means living accommodation rented or intended to be rented to a tenant;

"residential property" means

(a) a building, a part of a building or a related group of buildings, in which one or more rental units or common areas are located,

Therefore for this to be considered residential housing for the purposes of a notice under the Residential Tenancy Act, there would have to be rental units that were rented to a tenant; however that is not the case in this situation. In this case the landlord will be providing short term supportive housing to clients.

Further, section 4 of the Residential Tenancy Act states:

4 (f) This Act does not apply to

(f) living accommodation provided for emergency shelter or transitional housing,

It is my finding therefore, that Section 4(f) further supports the exclusion of transitional housing from the definition of residential tenancy under the Residential Tenancy Act.

It is my decision therefore that the landlord has served a valid two month Notice to End Tenancy with an end of tenancy date of November 30, 2016, and I will not cancel that notice.

Section 55 of the Residential Tenancy Act states:

- 55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if
- (a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and
 - (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

In this case I have examined the Notice to End Tenancy and it is my finding that it does comply with section 52 of the Act.

Conclusion

I therefore dismiss this application without leave to re-apply, and, having determined that the landlord's notice to end tenancy complies with section 52 of the Act, I have issued an Order of possession, pursuant to Section 55 of the Act, for 1:00 p.m. on November 30, 2016.

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 21, 2016

Residential Tenancy Branch