



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Anthem East 3rd Developments LP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

CNL, FF

Introduction

The tenants have applied to cancel a two month Notice to end tenancy for landlords' use of the property and to recover the filing fee cost from the landlord.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

Preliminary Matters

The tenants did not supply a copy of the Notice ending tenancy that was in dispute. The parties agreed that a two month Notice for Landlords' Use of the Property was issued on November 9, 2016. Applicant E.F. received the Notice on November 23 or 24, 2016 and applied to dispute the Notice on November 25, 2016.

The landlord confirmed receipt of the application and the amendment, correcting the reason given on the Notice, within the required time limit.

The tenants did not object to inclusion of the landlords' late evidence submission. The tenants did not make a written submission.

The landlords' evidence indicated that the two month Notice ending tenancy for landlords' use of the property issued on November 9, 2016 has been set aside and replaced by a Notice issued on December 20, 2016. The parties each agreed that the December 20, 2016 Notice was in dispute.

Issue(s) to be Decided

Should the one month Notice ending tenancy for cause issued on December 20, 2016 be cancelled or must the landlord be issued an order of possession?

Background and Evidence

This tenancy commenced in 2014. Rent is due on the ninth day of each month. The landlord supplied a copy of the tenancy agreement. The parties agreed that the tenant rents a total of three homes from the landlord. Each tenancy has a separate tenancy agreement signed in October 2014. The landlord has copies of those agreements. The current landlord recently assumed the tenancies when the landlord purchased the property.

The applicants confirmed that applicant E.F. is not a tenant of the landlord, but that tenant W.R. rents the home and has placed E.F. in the unit. E.F. pays rent directly to W.R., who then pays rent for all three homes to the landlord. E.F. and W.R. each applied to dispute the Notice.

The landlord and the tenant agree that a two month Notice to end tenancy for landlords' use of the property was served on the tenant indicating that the tenant was required to vacate the rental unit on April 9, 2017.

The Notice gave the following reason:

"The landlord has all necessary permits and approvals required by law to demolish the rental unit, or renovate or repair the rental unit in a manner that requires the rental unit to be vacant."

The landlord supplied a copy of a December 21, 2016 document issued by the City of North Vancouver. The document includes:

"Re: (file number) Application for Demolition of (unit address). The existing building at the above-reference address is permitted to be demolished, subject to the following conditions:"

The document provides list of 12 conditions that must be met. The document concludes:

"All conditions are to be completed and inspected/accepted by the relevant City staff prior to commencement of demolition works."

The landlord said this is the final demolition permit. The landlord must enter the house to test for hazardous materials. Any hazardous materials must be removed before the demolition can begin, but the permit takes into account the steps that must be taken prior to demolition.

E.F. said he went to the City office on December 23, 2016 and spoke to an employee who told him that the building permit for the structure that will be placed on the site has yet to be approved. The tenant said that he was told the building permit must be issued before the demolition can proceed. The tenant does not dispute the fact that the landlord will be demolishing the house. It is the timing of the demolition and the authority to end the tenancy during the conditional phase of the permit that the tenant disputes.

Analysis

The landlord has issued a Notice to end tenancy based on section 49(6)(a) of the Act, which provides:

(6) A landlord may end a tenancy in respect of a rental unit if the landlord has all the necessary permits and approvals required by law, and intends in good faith, to do any of the following:

(a) demolish the rental unit

When a tenant disputes a Notice ending tenancy the landlord has the burden of proving the reason given on the Notice.

From the evidence before me I find that the landlord has obtained the appropriate permit that authorizes the landlord to demolish the rental unit. The document issued by the City on December 21, 2016 permits demolition of the home at the dispute address. The permit is conditional, but there is no evidence before me that another, final permit is to be issued. The landlord only has to proceed in meeting the conditions on the permit and having those inspected and accepted by the City; at which point the actual demolition can proceed, as approved.

The tenants did not bring forward any evidence from the City that would contradict the document issued on December 21, 2016, providing the demolition permit. I have rejected the submission that a building permit is required in order to proceed with demolition. That condition is not included on the permit issued on December 21, 2016.

Therefore, I find that the landlord has met the burden of proof in support of the reason given on the two month Notice to end tenancy for landlords' use of the property issued on December 20, 2016. As a result I find that the tenants' application is dismissed.

Section 55(1) of the Act provides:

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.*

Therefore, as the tenants' application is dismissed I find that the landlord is entitled to an order of possession.

The landlord has been granted an order of possession that is effective **April 9, 2017 at 1:00 p.m.** This order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an order of that Court.

Conclusion

The application is dismissed.

The landlord is entitled to an order of possession.

This decision is final and binding and 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: January 05, 2017

Residential Tenancy Branch