



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNL OPL FF

Introduction

Both parties attended the hearing, the landlord being represented by his daughter. In the Decision, the representative will be termed 'the landlord'. The parties gave sworn testimony that a Notice to End Tenancy for landlord's use of the property dated November 29, 2016 to be effective January 31, 2017 was served personally and the tenant served this application filed December 5, 2016 by registered mail. The tenant applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To cancel a notice to end tenancy for landlord's use of the property pursuant to section 49;
- b) An Order that the landlord comply with the Act; and
- c) To recover the filing fee for this application.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that they need in good faith to end the tenancy in order to have the property for their own use? Or is the tenant entitled to any relief? Is the landlord entitled to an Order of Possession if the tenant is unsuccessful in the application?

Background and Evidence

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced nineteen and a half years ago, it is now a month to month tenancy, rent is \$925 a month and a security deposit of \$325 was paid. The landlord served a Notice to End Tenancy for the following reasons:

The landlord has entered into an agreement of purchase and sale and the purchaser has asked the landlord in writing to end the tenancy on one of the following grounds:

- (i) *The purchaser or a close family member intends in good faith to occupy the rental unit.*

When requested by the tenant, the landlord did not supply the purchaser's request in writing. In the hearing, the landlord said the tenancy was a unit in an old warehouse and the new owner's intention was to tear it down so there would be no suite.

After discussion of the alternatives and consideration of section 49 and 51 of the Act, the parties agreed to settle on the following terms and conditions:

Settlement Agreement

1. The parties agree the tenant will receive compensation of two months rent plus his filing fee in addition to the one month free rent he has had in January 2017.
2. The parties agree the landlord will receive an Order of Possession effective January 31, 2017 and the tenant will vacate by that date.
3. The security deposit will remain in trust with the landlord to be dealt with in accordance with section 38 of the Act after the tenant vacates.

On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

Analysis:

Pursuant to the above noted agreement, I find the tenant entitled to a monetary order for \$1950 (2x925 + 100 filing fee). I find the landlord entitled to an Order of Possession effective January 31, 2017. I find the security deposit of \$325 remains in trust with the landlord to be dealt with after the tenant vacates and provides a forwarding address in writing in accordance with section 38 of the Act.

Conclusion:

As agreed by the parties, the tenant will receive a monetary order for \$1950 and the landlord, an Order of Possession effective January 31, 2017. The filing fee is included in the monetary order to the tenant. Orders are enclosed.

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: January 12, 2017

Residential Tenancy Branch