



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WESTSEA CONSTRUCTION LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL

Introduction

On February 8, 2017, the Tenant submitted an Application for Dispute Resolution asking to cancel a 2 Month Notice to End Tenancy for Landlord Use of Property.

The matter was set for a conference call hearing. Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence, orally and in written and documentary form, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The Tenant provided seven pages of documentary evidence to the Residential Tenancy Branch and the Landlord eight days prior to the hearing. The Landlord raised the issue that the evidence was not provided within the timelines set out in the rules of procedure. The Landlord provided a detailed written response to the Tenant's evidence and stated they would leave the decision on whether the late evidence should be accepted to the Arbitrator. Based on the Landlords' detailed response to the Tenant's late evidence, I admitted the late evidence. I find that the Landlord had an opportunity to consider and respond to the Tenant's documentary evidence.

Issues to be Decided

- Should the notice to end tenancy be cancelled?
- Is the Landlord entitled to an order of possession?

Background and Evidence

The Landlord and Tenant testified that the tenancy began on August 1, 2014, as a month to month tenancy. Rent in the amount of \$1,100.00 is to be paid on the first day of each month. The Tenant paid the Landlord a security deposit in the amount of \$550.00. The rental unit is an apartment within a multi-unit apartment building.

The Landlord testified that their relief manager gave notice to terminate his position, and the Landlord immediately placed an advertisement in a newspaper to find someone to fill the vacancy. The Landlord testified that they found somebody from out of town to fill the position.

The Landlord testified that there were no vacancies in the rental property for the relief manager to occupy, so they chose to issue a 2 Month Notice To End Tenancy For Landlord Use of Property to the Tenant in unit 105. The Landlord testified that they chose unit 105 due to it being on the main floor and due to its proximity to the resident manager's office.

The Landlord issued the Tenant a 2 Month Notice To End Tenancy For Landlord's Use Of Property dated January 30, 2017, ("the Notice"). The reason for ending the tenancy on the Notice states:

The Landlord intends to convert the rental unit for use by a caretaker, manager, or superintendent of the residential property.

The Notice provides information for Tenants who receive the Notice. The Notice states that a Tenant has the right to dispute the Notice within 15 days after it is assumed to be received by filing an Application for Dispute Resolution at the Residential Tenancy Branch.

The Tenant disputed the Notice on February 8, 2017.

In response to the Landlord's testimony, the Tenant testified that she disputed the Notice because she recently lost her job and she has to look for a new place to live. The Tenant testified that she understands why the Landlord wants the suite but she feels it is unfair.

The Tenant requested that she be granted additional time to move out of the rental unit.

The Landlord submitted that they need the rental unit on the effective date of the Notice because the new relief manager is moving into the unit. The Landlord J.T. stated that she is unable to give the Tenant additional time and requested an order of possession.

The Landlord testified that she is aware of the compensation that is due to a Tenant who receives a 2 Month Notice To End Tenancy For Landlord's Use Of Property.

Analysis

Residential Tenancy Branch Policy Guideline #2 Good Faith Requirement states that the *Act* allows a Landlord to end a tenancy if the Landlord has an honest intention to use the rental unit for the purpose stated on the Notice.

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

There is insufficient evidence from the Tenant to establish that the Notice was issued in bad faith. The Tenant disputed the Notice because she does not find it is fair and wants more time. There was no submission from the Tenant or evidence provided that the Landlord has a dishonest intention to use the rental unit for some other purpose. I am satisfied that the Landlord intends to use the rental unit for the purpose stated in the Notice.

I dismiss the Tenant's Application to cancel the 2 Month Notice to End Tenancy For Landlord's Use Of Property dated January 30, 2017.

Under section 55 of the Act, when a Tenant's Application to cancel a Notice to end tenancy is dismissed and I am satisfied that the Notice to end tenancy complies with the requirements under section 52 regarding form and content, I must grant the Landlord an order of possession.

I find that the Notice complies with the requirements regarding form and content and I find that the Landlord is entitled to an order of possession effective by 1:00 p.m. on March 31, 2017, after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

As the Tenant was not successful with her Application, I do not grant recovery of the cost of the filing fee.

Conclusion

The Tenant's Application to cancel the 2 Month Notice To End Tenancy For Landlord's Use Of Property dated January 30, 2017, is dismissed.

I grant the Landlord an order of possession effective by 1:00 p.m. on March 31, 2017. The Tenant must be served with the order of possession.

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: March 09, 2017

Residential Tenancy Branch