



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FF

Introduction

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. An order to cancel the two month Notice to End Tenancy dated January 21, 2017
- b. An order to recover the cost of the filing fee.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the 2 month Notice to End Tenancy was personally served on the Tenant on January 23, 2017. Further I find that the Application for Dispute Resolution/Notice of Hearing was served on the landlord by mailing, by registered mail on February 10, 2017. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the two month Notice to End Tenancy dated January 21, 2017?
- b. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence

The tenant and the previous owner entered into a tenancy agreement that provided that the tenancy would start on August 1, 2015. The respondent purchased the property with the closing taking place in July 2016. The present rent is \$2620 per month payable in advance on the first day of the month. The tenant paid a security deposit of \$1275 at the start of the tenancy. .

Grounds for Termination:

The Notice to End Tenancy relies on section 49 of the Residential Tenancy Act. That section provides as follows:

- The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse

The representative of the landlord provided the following evidence:

- The registered owner of the rental property is her mother and father.
- She owns a property located near the rental unit. Her property needs significant repairs and renovations and she intends to move into the rental property starting April 1, 2017. The problem necessitating the move is pressing because the harsh winter has caused leaking problem with her roof.
- Her parents are elderly and not in good health. Her mother was hospitalized for a period of time in February. Her father has diabetes
- Her parents previously lived in a studio downtown. However, they have recently moved in with her and she acts as a caretaker for them. Her parents moved from the studio because of the noise and their ill health.
- The intention of the landlord is that the representative and her parents will move into the rental unit. The parents plan to stay there indefinitely. She will stay there until the renovations are done on her unit.
- The rental unit is 3 bedrooms in size.

The tenant gave the following evidence:

- The tenant questions good faith intention of the parents moving into the rental unit. He testified this was not mentioned to him in late January when the Notice was served.
- The tenant also submits the landlord failed to prove that she intends to renovate/repair her unit. She failed to produce an agreement with a contractor to do the work and has only produced two quotations for the cost of material.
- The representative of the landlord has not been transparent and open with her which shows a lack of good faith.
- The rental property has two floors with the bedrooms and bathroom on the second floor which will make it difficult for her elderly parents.
- The landlord failed to respond promptly to a problem her experienced with a woodpecker.
- The reason he did not signed a fixed tenancy with the landlord after they purchased the property was because the landlord was requiring that the tenancy agreement include a provision that the tenant would have to vacate the rental unit at the end of the fixed term.

Analysis:

After carefully considering all of the evidence I determined the landlord has established sufficient grounds to end the tenancy for the following reasons:

- I accept the evidence of the representative of the landlord that at the time the 2 month Notice to End Tenancy was served on the tenant she intended to move into the rental property owned by her parents while her property was undergoing through extensive

repairs and renovations. A daughter qualifies as a close family member under section 49 of the Act.

- I further accept the testimony of the representative of the landlord that her parents will be moving into the rental unit with her.
- It is not usual for a adult child of elderly parents to have the elderly parents living with the adult child especially if the adult parents have health issues.
- I determined the landlord is acting in good faith. There is no evidence that the landlord has an ulterior motive for ending the tenancy.

Determination and Orders:

In summary I determined that the landlord has established sufficient cause to end the tenancy. As a result I dismissed the tenant's application to cancel the 2 month Notice to End Tenancy. I order that the tenancy shall end on the date set out in the Notice. I further order that the application of the tenant for the cost of the filing fee be dismissed.

Order for Possession:

The Residential Tenancy Act provides that where an arbitrator has dismissed a tenant's application to cancel a Notice to End Tenancy, the arbitrator must grant an Order for Possession. As a result I granted the landlord an Order for Possession effective April 1, 2017.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

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 07, 2017

Residential Tenancy Branch