



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FF

Introduction

The tenants apply to cancel a two month Notice to End Tenancy for landlord use of property. The Notice was issued under s. 49 of the *Residential Tenancy Act* (the “Act”), which permits a landlord to end a periodic tenancy on two months’ notice if the landlord or a close family member intends to occupy the premises.

All parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

Issue(s) to be Decided

Does the landlord have a good faith intention that she or a close family member will occupy this rental unit?

Background and Evidence

The rental unit is a three bedroom house. The tenancy started in August 2009. The monthly rent is currently \$1745.00. The written tenancy agreement provides that rent is due on the 16th of each month. The landlord holds an \$840.00 security deposit and an \$840.00 pet damage deposit.

Ms. E.F. is the landlord’s nineteen year old daughter. She testifies that she intends to move into the property and attend university over the summer and into the fall. She currently lives in residence at the university and her tenancy there ends April 29, 2017.

The landlord testifies confirming her daughter's and her intention. She says that her daughter may find roommates or another daughter, attending another university in the area may join her in the home.

The tenant Ms. C.M. says the Notice was abrupt. She had complained about a snow covered tree branch hanging down on the roof last February. She thinks her complaint may have resulted in this Notice.

She also has a suspicion that the landlord may be evicting her and Mr. R.M. because the rents in the area are increasing significantly and the landlord merely wants to rent out to new tenants at a higher rent.

Mr. R.M. testified that the landlord was not acting in good faith in his opinion.

In reply Ms. E.F. states that she had agreed to attend to the tree branch when the weather improved. She denies that she wants to re-rent the home to new tenants for a higher rent.

Analysis

Though the tenants may have concerns and suspicions, they are not substantiated by the facts. On the evidence before me I find that the landlord does have a good faith intention to provide this home for the use of her daughter, a close family member.

Conclusion

The tenants' application to cancel the Notice must be dismissed.

Section 55 of the *Act* requires that an order of possession be granted to the landlord in these circumstances.

The Notice gives April 16, 2017 as the effective date to end the tenancy. According to s. 49(2) of the *Act* the Notice is effective on a date that must be (a) not earlier than 2 months after the date the tenant receives the notice, and (b) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Since the rent is lawfully due on the 16th of each month and since this Notice was served February 16th, the earliest date the Notice could be effective would be May 15, 2017.

By operation of s. 53 of the *Act*, a Notice defective in this way automatically corrects itself to the earliest lawful date.

This tenancy will therefore end on May 15, 2017 and the landlord will have an order of possession for that date.

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 28, 2017

Residential Tenancy Branch