



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ASSOCIATED PROPERTY MANAGEMENT (2001) LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL, DRI, O

Introduction

This hearing dealt with a tenant's Application for Dispute Resolution (the "Application") under the *Residential Tenancy Act* (the "Act") for:

- an order to cancel the landlord's Two Month Notice To End Tenancy for Landlord's Use of Property (the "Two Month Notice");
- an order to cancel the landlord's notice of rent increase; and
- an order for unspecified relief.

The landlord's agent (the "Landlord") and the tenant appeared at the teleconference hearing and gave affirmed testimony. During the hearing the landlord and tenant were given a full opportunity to be heard, to present sworn testimony and make submissions. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

Preliminary and Procedural Matters

The tenant did not specify other relief they were seeking besides cancellation of the Two Month Notice and cancellation of the landlord's notice of rent increase. Accordingly, I dismiss the tenants' claim for unspecified other relief.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure states that, in the course of the dispute resolution proceeding, if the arbitrator determines that it is appropriate to do so, he or she may dismiss the unrelated disputes contained in a single application with or without leave to reapply.

Upon review of the tenant's application I have determined that I will not deal with all the dispute issues the tenant has placed on their application. For disputes to be combined on an application they must be related. Not all the claims on this application are sufficiently related to the main issue relating to the Notice to end tenancy. Therefore, I will deal with the tenant's request to cancel the Two Month Notice. I dismiss the balance of the tenant's application with leave to reapply. Leave to reapply is not an extension of any applicable limitation period.

Issue to be Decided

- Is the tenant entitled to cancellation of the landlord's Two Month Notice?

Background and Evidence

The undisputed evidence established that the tenancy started as a one year fixed term tenancy on October 1, 2014 to September 30, 2015. At the end of the fixed term the tenancy continued on a month to month basis until the tenant entered into another fixed term tenancy starting on March 1, 2016 and ending March 31, 2017. At the end of this fixed term, the tenancy has continued on a month to month basis. Rent in the amount of \$1,550.00 is due on the first day of each month.

The undisputed evidence established that the owner of the property asked the tenant to accept an increase in rent above the amount permitted under the legislation. The owner indicated to the tenant that he would serve the tenant with a Two Month Notice if the tenant did not agree to the rent increase. The tenant did not agree to the proposed rent increase.

The owner served the tenant with a Two Month Notice by mailing a copy on April 4, 2017, which the tenant acknowledged receiving on April 7, 2017. The Two Month Notice is dated April 4, 2017, with an effective date of June 30, 2017. The reason given for issuing the Two Month Notice is that the landlord intends on moving into the rental unit himself.

The landlord testified that the owner feels that he should be getting more rent for the unit. The owner is currently in a rental unit that he does not own. The landlord testified that the owner does not wish to pay more for rent than what he is collecting from his own rental unit. The landlord indicated that it makes more financial sense for the landlord to move into his own rental unit.

The tenant argued that he believes that the landlord will move in for a short time period and then move out as a strategy to obtain a higher rent.

The tenant is seeking to cancel the Two Month Notice so that the tenancy will continue.

Analysis

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

Section 49(3) of the *Act* allows a landlord to end a tenancy if the landlord intends in good faith to:

- move in themselves, or allow a close family member to move into the unit.

Policy Guideline #2 explains the 'good faith' requirement as requiring honesty of intention with no ulterior motive. The landlord must honestly intend to use the rental unit for the purposes stated on the Notice to End the Tenancy.

I find that there is sufficient evidence that the landlord honestly intends to use the rental unit for himself. In making this finding, I have taken into consideration the fact that the tenant believes that the landlord will occupy the unit and that the landlord's reasons for moving into the unit make financial sense. While the tenant argues that the landlord's motive for doing so is to obtain a higher rent by moving out after a short period, I find that there is insufficient evidence to support the tenant's assertion.

Based upon the foregoing, I find that the tenant is not entitled to cancellation of the Two Month's Notice. Therefore, I dismiss the tenant's application.

When a tenant's application to dispute a landlord's notice to end a tenancy is dismissed, s.55 of the *Act* requires me to grant an order of possession if the landlord's notice to end a tenancy complies with section 52 of the *Act*.

Based on the above testimony and evidence, I find that the Two Month Notice complies with section 52 of the *Act*. As a result, I find the landlord is entitled to an order of possession. The order of possession will take effect on June 30, 2017, the effective date on the Two Month Notice.

Conclusion

The tenant's application is dismissed and the Two Month Notice is upheld.

Pursuant to section 55 of the *Act*, I grant an Order of Possession to the landlord effective **at 1:00 p.m. on June 30, 2017**, which should be served on the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: May 17, 2017