



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

CNL FF

Introduction

This hearing was convened in response to the tenant's application for dispute resolution seeking to cancel a notice to end tenancy issued by the landlord for the landlord's use of property pursuant to Section 49(5) of the *Residential Tenancy Act* (the Act). The tenant also seeks to recover their filing fee. Both parties appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form and to cross-examine the other party, and make submissions to me.

Issues to be Decided

Has the landlord validly issued the notice to end tenancy?

Has the landlord sold the rental unit?

Does the purchaser or a close family member of the purchaser intend, in good faith, to move into the rental suite?

Background and Evidence

The evidence is that the tenant was given a 2 Month notice to End Tenancy for Landlord's Use dated April 19, 2017 for the stated purpose prescribed by Section 49(5) of the Act. I have benefit of a copy of the Notice and I relied on the testimony of the parties to describe the notice. The reason for the notice was that all of the conditions for the sale of the rental unit were satisfied and that the purchaser has asked the landlord in writing to serve the tenant with a notice to end tenancy because he intends to move into the rental unit. The tenant filed their application to dispute the notice due to information they received from the landlord's representative that the unit may not have sold as originally claimed.

The landlord testified that the rental unit did not sell as was intended. However, the landlord now intends to personally occupy the unit.

Analysis

Based on the evidence in front of me and the testimony of the parties, I find that the landlord has not proven that the rental property has sold. Therefore, I find that the landlord does not intend to follow through on the stated purpose for ending the tenancy. As a result, I find the landlord's notice to end is not valid and I must set aside the notice to end tenancy dated April 19, 2017. The tenancy will continue on the original terms of the tenancy agreement until the landlord or the tenant validly ends the tenancy.

As the tenant was successful in their application they are entitled to recover their filing fee from the landlord.

I Order that the tenant may deduct **\$100.00** from a future rent to this landlord in satisfaction of their filing fee.

Conclusion

The notice to end tenancy is set aside and the tenancy continues.

This Decision is final and binding.

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: June 05, 2017

Residential Tenancy Branch