



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BAFFIN PLACE HOLDINGS LTD AND 608821 BC LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNL FF

Introduction

Both parties attended the hearing and gave sworn testimony. They confirmed the Two Month Notice to End Tenancy dated April 24, 2017 to be effective June 30, 2017 was served personally on April 25, 2017. The tenant /applicant gave evidence that they served the Application for Dispute Resolution by registered mail and the landlord agreed they received it. I find the documents were legally served pursuant to sections 88 and 89 of the Act for the purposes of this hearing. The tenant applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To cancel a notice to end tenancy for landlord's use of the property pursuant to section 49; and to recover the filing fee for this application.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that they need to end the tenancy in order to have the property for their own use? Or is the tenant entitled to any relief? Is the landlord entitled to an Order of Possession if the tenant is unsuccessful in the application?

Background and Evidence

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced in September 2010, it is now a month to month tenancy, rent is \$1156.25 a month and a security deposit of \$475 was paid. The landlord served a section 49 Notice to End Tenancy as "The rental unit will be occupied by the landlord or the landlord's close family member (parent, spouse or child; or the parent, spouse or child of that individual's spouse)."

There are two units in the four plex according to the tenant and their neighbour was given a similar Notice to End Tenancy. They don't believe the landlord can occupy two units and they ask to cancel the Notice to End Tenancy.

The landlord explained how she has some domestic difficulties and she intends to move into one unit with her children and her parents who are arriving from overseas will occupy the other unit to help her care for her children.

The tenant explained their difficulty in moving at this time due to imminent surgery and asked for a two month extension. After further discussion, the landlord voluntarily, without coercion, agreed to a one month extension to July 31, 2017 to accommodate the needs of the tenants.

The tenants have paid their rent for June 2017 and they are entitled to one free month's rent pursuant to section 51 of the Act. The rent for July 2017 will be free. Included with the evidence is the Notice to End Tenancy and letters from the landlord and tenant. On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

Analysis:

As discussed with the parties in the hearing, the onus is on the landlord to prove on a balance of probabilities that they have good cause to end the tenancy. I find the evidence of the landlord credible that she needs one of the units for her own and children's use and the second one for her parents. I find her evidence is well supported by the reasons she gave for these plans. Both parties were advised of the provisions in section 51 of the Act regarding compensation if the landlord does not use the unit as stated.

For these reasons, I dismiss the application of the tenant to cancel the Notice to End Tenancy. I find the tenancy is terminated on June 30, 2017. Section 55 of the Act provides when a tenant's Application to cancel the Notice is dismissed, the landlord is entitled to an Order of Possession. I find the landlord is agreeable to an Order of Possession to be effective July 31, 2017.

Conclusion:

The Application of the Tenant to set aside the Notice to End Tenancy is dismissed. An Order of Possession is issued to the landlord effective July 31, 2017. I find the tenant not entitled to recovery of the filing fee due to lack of success.

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 06, 2017

Residential Tenancy Branch