



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNL

Introduction

The applicant tenant did not attend the hearing. After 10 minutes, the hearing proceeded in his absence. The landlord's representative (hereinafter called 'the landlord') attended the hearing and gave sworn testimony. He confirmed the Two Month Notice to End Tenancy dated April 12, 2017 to be effective June 30, 2017 was served by posting it on the tenant's door. The tenant /applicant filed their Application on May 10, 2017 and the landlord confirmed it was served personally on them. 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 allow more time to cancel the Notice to end Tenancy due to medical issues; and
- b) To cancel a notice to end tenancy for landlord's use of the property pursuant to section 49.

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

The tenant had not attended by ten minutes after the scheduled hearing time so the hearing proceeded in his absence. The landlord's representative attended the hearing and was given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced about 2 years ago, rent is \$500 a month and a security deposit of \$200 was paid. The landlord served a Notice to End Tenancy for the following reasons:

- *The rental unit will be occupied by the landlord of the property or the landlord's close family member (parent, spouse or child; or the parent or child of that individual spouse).*

The landlord said his parents and sister are going to occupy the unit. He said they live upstairs with the landlord now but they need their own space.

Included with the evidence is a valid copy of the section 49 Notice to End Tenancy. On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

Analysis:

The onus is on the landlord to prove on a balance of probabilities that they have good cause to evict the tenant. I find the evidence of the landlord credible that his parents and sister intend to occupy the unit. I find his parents are close family members as defined in section 49 of the Act.

The tenant did not attend to support his application. In his application, he said the landlord's relatives from India are moving in but it was not proven in a prior hearing. I find the parties had not submitted a valid copy of a Notice to End Tenancy in the prior hearing so the landlord did not succeed. Whether or not the landlord's parents are from India, I find is irrelevant if they are going to occupy the suite pursuant to the section 49 Notice. I dismiss the application of the tenant to cancel the Notice to End Tenancy. I find the tenancy is terminated on June 30, 2017 in accordance with the Notice. Pursuant to section 55 of the Act, when an application of the tenant to cancel a Notice to End Tenancy is dismissed, a landlord may be granted an Order of Possession. An Order of Possession is issued to the landlord. The landlord was reminded to follow the legal procedure to enforce the Order of Possession if necessary.

Conclusion:

The Application of the Tenant to set aside the Notice to End Tenancy is dismissed. The filing fee was waived. The tenancy is at an end on June 30, 2017. An Order of Possession is issued to the landlord effective June 30, 2017.

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 28, 2017

Residential Tenancy Branch