



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding FAN TOWER SOUTH INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNL FF

Introduction:

Both parties, a witness and their counsels attended the hearing and gave sworn testimony. They confirmed the Two Month Notice to End Tenancy for landlord's use of the property dated June 28, 2017 to be effective August 31, 2017 was served personally and the landlord received the tenant's Application for Dispute Resolution dated June 30, 2017 by registered mail. I find the documents were served legally according 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 an order to set aside the Notice to End tenancy as they allege the landlord does not have all the necessary permits to renovate the unit in a manner that requires it to be vacant.

Issues:

Has the landlord the necessary permits as required by section 49 of the Act to do the renovation? Does the unit need to be vacant to do the renovations?

Background and Evidence:

The landlord stated the reason for ending the tenancy on the Notice is that the landlord has all necessary permits and approvals required by law to demolish the rental unit or repair the rental unit in a manner that requires the rental unit to be vacant. The evidence is that extensive repair is needed and the City has issued an Order to repair. The landlord and his contractor witness testified that no permits are required since this is an extensive interior renovation with no structural or exterior changes contemplated. The building is a heritage building about 100 years old. The tenant has rented the suite since December 2007, his current rent is \$933 a month and he has a security deposit of \$325 plus \$20 key deposit. He does not want his tenancy to end.

The landlord and his contractor testified that some of the extensive repairs involve complete renovation of the bathroom and kitchen with removal of fixtures, ceiling removals and repairs and new flooring. They state the unit has to be vacant as the

extensive dust may be harmful to the tenants who have some health issues now. The landlord estimates the bathroom and kitchen would be non functional for a month or more. They offered the tenant a move to an alternate unit or to do the repairs while they live there but the tenant did not reply; the other unit is no longer available.

The tenant and his counsel submitted that he would be prepared to stay amid the dust and debris as it can be minimized by plastic sheeting between rooms. He said they would be willing to move out for a month to allow the contractor to do bathroom and kitchen repairs to make the unit habitable. They do not want to leave. The female tenant could not be present as she has a family medical emergency in another province but the male tenant at the hearing said he is authorized to negotiate on her behalf.

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, took a break to consult with counsel, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time:

Settlement Agreement:

- 1. Everyone agrees that extensive repairs are necessary and they want them done.**
- 2. The tenant agrees they will vacate for a month as needed to do bathroom and kitchen work and agrees they will remove all their belongings to enable the contractor to do the job (such as replace flooring).**
- 3. The landlord agrees to give 2 weeks Notice at the end of October for the tenant to vacate and they tenant will vacate with their belongings in response to the Notice.**
- 4. The Notice to End Tenancy will be set aside and cancelled and the tenancy will continue.**
- 5. This agreement settles all matters between the parties in respect to this tenancy to this date.**

Analysis:

Pursuant to the above noted settlement agreement, I set aside the Notice to End Tenancy dated June 28, 2017 and orders will be made to ensure compliance with the agreement. The tenancy continues.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties testified at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties testified that they understood and agreed that the above terms are legal, final and binding and enforceable, which settle all aspects of this dispute.

Conclusion:

The Notice to End Tenancy dated June 28, 2017 is hereby set aside and cancelled. The tenancy continues.

TO COMPLY WITH THE TERMS OF SETTLEMENT, I HEREBY ORDER:

- 1. Upon two weeks notice given by the landlord at the end of October 2017, the tenant will vacate the property and remove their possessions for one month to allow essential repairs to be completed.**

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: September 13, 2017

Residential Tenancy Branch