



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 as a result of the Tenant's Application for Dispute Resolution. The participatory hearing was held on December 13, 2017. The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- Cancel the Landlord's 2-Month Notice to End Tenancy for Landlord's Use of Property (the Notice).

Both parties were present at the hearing and provided testimony. Both parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

The Landlord stated that she provided two different emails as part of her documentary evidence in this hearing to support that she needs the Tenant to leave in order to complete the permit process. She stated that she dropped copies of her evidence through the Tenant's mail slot on October 20, 2017. The Tenant stated that she never got copies of these emails and does not know anything about them.

I note the Tenant denies receiving any evidence from the Landlord. I also note the Landlord was unable to prove service of this evidence to the Tenant. Without proof of service, I am unable to find that the Tenant received this evidence, or is deemed to have received it. Since I cannot confirm service of this evidence, I will not be considering it in this hearing.

In the future, I encourage both parties to utilize registered mail, in order to substantiate the service and delivery of evidence. Further, it is important to note that failure to pick up or collect registered mail is not a ground of review, and even if a party does not

collect their registered mail, it may be deemed received, pursuant to section 90 of the Act.

Issues(s) to be Decided

- Is the tenant entitled to have the landlord's Notice cancelled?
 - If not, is the landlord entitled to an Order of Possession?
- Is the tenant entitled to recover the filing fee for this application from the landlord?

Background and Evidence

The Tenant acknowledged receiving the Notice on September 19, 2017. The Landlord issued the Notice for the following reason:

- The landlord has all necessary permits and approvals required by law to demolish the rental unit, or renovate or repair the rental unit in a manner that requires the rental unit to be vacant.

The Landlord stated that the Tenant has rented her house for many years, and up until this point there have not been many issues. The Landlord stated that she now wants to demolish the house so that she can rebuild a new one. The Landlord stated that she has applied to the city to demolish the house, but she is awaiting a certificate from the HAZMAT company in order to get her final demolition permit from the municipality. The Landlord stated that she cannot get the certificate from the HAZMAT company until the Tenant moves out because their work requires the unit to be vacant.

The Tenant stated that she called the city hall and checked to see if the Landlord had all the permits necessary to demolish the rental house. The Tenant further stated that the Landlord does not have all the permits in place and they do not meet the requirements laid out on the Notice, which is to have all necessary permits and approvals required by law to demolish the unit.

The Landlord stated that they are in a difficult position because in order to get the demolition permit, the Tenant needs to leave, and they need to complete the HAZMAT remediation.

Analysis

In the matter before me, the Landlord has the onus to prove that the reason in the Notice is valid. Based on the evidence and testimony before me, I make the following findings:

I acknowledge that the Landlord is intending to demolish the house. The Landlord has stated that she needs the Tenant to leave in order to obtain the HAZMAT certificate, which is a requirement the city has before they will issue a demolition permit.

Keeping in mind my findings above with respect to the Landlord's evidence, I find there is no documentary evidence from the Landlord that vacant possession is required in order to obtain the demolition permits from the city. I find there is insufficient documentary evidence to support the reason listed on the Notice.

I find that the landlord has not provided sufficient evidence to support the reason to end the tenancy; therefore, the tenant's application is successful and the Notice received by the Tenant on September 19, 2017, is cancelled. I order the tenancy to continue until ended in accordance with the *Act*.

As the Tenant was successful with her application, I grant them the recovery of the filing fee against the Landlord. The Tenant may deduct the amount of \$100.00 from 1 (one) future rent payment.

Conclusion

The Tenant's application is successful. The Notice is cancelled.

The Tenant may deduct the amount of \$100.00 from 1 (one) future rent payment.

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: December 14, 2017

Residential Tenancy Branch