



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes LANDLORD; OPL, FF
 TENANT: CNC, OLC

Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlords and the Tenant.

The Landlords filed seeking to end the tenancy and obtain an Order of Possession and to recover the filing fee for this proceeding.

The Tenant filed to obtain an order to cancel the Notice to End Tenancy and for the Landlords to comply with the Act, regulations and tenancy agreement.

Service of the hearing documents by the Landlords to the Tenant were done by personal delivery on or about November 26, 2017 in accordance with section 89 of the Act. The Tenant said she told the Landlord she did not need the Landlords' package as she had made her own application.

Service of the hearing documents by the Tenant to the Landlords were done by personal delivery on November 26, 2017 in accordance with section 89 of the Act.

Both parties confirmed the service of the other parties' hearing package but the Tenant did not accept the Landlords' hearing package.

Issues to be Decided

Landlord:

1. Are the Landlords entitled to end the tenancy and obtain an Order of Possession?
2. Are the Landlords entitled to recover the filing fee?

Tenant:

1. Is the Tenant entitled to an order to cancel the Notice to End Tenancy?
2. Have the Landlords complied with the Act, regulations and tenancy agreement

Background and Evidence

The Tenant said this tenancy started on June 15, 2017 as what she thought was a long term tenancy but the term of the tenancy was not completed in the tenancy agreement. The

Landlord said his copy of the tenancy agreement indicates a month to month tenancy and that is what they agreed to. The Landlord said they did not agree to a long term tenancy. The Tenant said she would not have moved in if she did not think it was a long term tenancy, but the Tenant said she was mistaken not to have checked the tenancy agreement to ensure the term was what she thought it was. Rent is \$900.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$450.00 at the start of the tenancy. No condition inspection report was completed at the start of the tenancy.

The Landlord said he served the Tenant with a 2 Month Notice to End Tenancy for Landlord's Use of the Property dated November 1, 2017. The Notice has an effective vacancy date of December 31, 2017 which the Landlord said he understands should be changed January 31, 2018. The Landlord continued to say that they issued the 2 Month Notice to End Tenancy for Landlord's Use of the Property because his parents are moving into the rental unit in the basement of his house. The male Landlord continued to say that his mother is moving in to the rental unit to help care for their daughter and his mother has had some health issues so the Landlords can help her if she needs assistance. The Landlord said he wants his parents to move into the rental unit as soon as the Tenant vacates.

The Tenant said the when she first talked with the Landlords it was understood this would be a long term tenancy as she has a piano which is difficult to move and the rental unit was close to her places of work. The Tenant continued to say she would not have moved in if she knew the tenancy would end in 6 months. The Tenant said the Landlords' child is 3.5 years old and is not in school so she does not understand why the mother is needed to care for the child. Further the Tenant said the mother has a house so she does not believe the Landlords' mother is moving. The Tenant said this has been very disruptive to her life and she does not want to move.

The male Landlord said his parents own a house but the he has two adult brothers who live in the parent's house and they will continue to live there when his parents move into the rental unit.

The Tenant said she does not have anything to dispute the Landlord's mother moving into the rental unit but she does not believe the Landlords' mother is moving in on a permanent basis.

The male Landlord said this will be his mother's permanent address and she will receive her mail at the rental unit's address.

The Tenant said she needs more time than January 31, 2018 if the tenancy is ending. The Tenant requested to end the tenancy in June, 2018.

The Landlords said they would agree to end the tenancy March 31, 2018 if that would help the Tenant find new accommodations.

The Tenant said she would agree to end the tenancy on March 31, 2018.

Analysis

Section 49 (3) of the Act says: A landlord who is an individual may end a tenancy in respect of a rental unit if the landlord or a close family member of the landlord intends in good faith to occupy the rental unit.

A Landlord has the right to end a tenancy if the rental unit is being used for the owner or a close family member. I accept the Landlord's affirmed testimony that the Landlord's parents are moving into the rental unit. Further as the term of the tenancy is not indicated in the tenancy agreement the tenancy is deemed to be a month to month term.

Further I find the Tenant has not established grounds to prove the 2 Month Notice to End Tenancy for Landlord's Use of the Property is not valid. I dismiss the Tenant's request to cancel the Notice to End Tenancy dated November 1, 2017 and pursuant to section 55 of the Act I grant the Landlords an Order of Possession effective March 31, 2018 at 1:00 p.m. The effective vacancy date on the Notice to End Tenancy dated November 1, 2017 is December 31, 2017 but that date is automatically corrected under section 53 of the Act to the correct date of January 31, 2018. As the Landlords have agreed to end the tenancy on March 31, 2018 that will be the effective vacancy date of the Order of Possession.

Further as the Landlords have been successful in this matter I order the Landlords to retain \$100.00 of the Tenant's security deposit to recover the filing fee of \$100.00 for this application.

Conclusion

The Tenant's application to cancel the 2 Month Notice to End Tenancy for Landlord's Use of the Property is dismissed without leave to reapply.

An Order of Possession effective March 31, 2018 has been issued to the Landlord. A copy of the Order must be served on the Tenant in accordance with the Act: the Order of Possession and may be enforced in the Supreme Court of British Columbia.

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: January 16, 2018

Residential Tenancy Branch