



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

The tenants apply to cancel a one month Notice to End Tenancy dated November 30, 2017.

The Notice was given alleging that the rental unit must be vacated to comply with a government order. Such grounds if proved are good grounds to end a tenancy under s. 47 of the *Residential Tenancy Act*.

The attending parties were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

Issue(s) to be Decided

Has the landlord established that the rental unit must be vacated to comply with a government order?

Background and Evidence

The rental unit is the two bedroom upper portion of a house. The lower, ground level portion has been rented to others. Each rental unit has its own front door facing the street.

There is a written tenancy agreement but neither side submitted it. They agree the tenancy started about two years ago, the monthly rent is \$825.00 and that the landlord holds a security deposit of about \$417.40.

The landlord produces a letter from the local government stating that the home contains a "secondary suite" and that unless the owner is residing in the home such a secondary suite is an illegal dwelling unit. The letter directs the owner to remove and decommission cooking facilities from the suite,

The landlord gave the tenant in the lower suite an identical Notice and that tenant has vacated or is in the process of vacating.

Analysis

The ending of a tenancy is a very serious matter. A landlord intending to evict a tenant must comply strictly with the rules permitting him to do so and must provide cogent and convincing evidence.

In this case, the letter from the local government does not indicate which of the rental units is the "secondary suite." I would think that until it does indicate which suite, such a letter could not be used to evict a tenant.

At this hearing the parties agreed the secondary suite was the lower suite. If they hadn't, on the evidence before me I would have determined that the primary suite in the home is the upper portion of the building.

As the local government letter refers to the lower suite, it cannot be used as a reason to evict the tenants in the main house.

Conclusion

The tenants' application is allowed. The Notice to End Tenancy dated November 30, 2017 is cancelled. As they have been successful the tenants are entitled to recover the \$100.00 filing fee for this application. I authorize them to reduce their next rent due by \$100.00 in full satisfaction of the fee.

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: February 06, 2018

Residential Tenancy Branch