



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

CNL

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) pursuant to section 49.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed that the tenant served the landlord with the notice of hearing package in person on January 6, 2018. Neither party raised any issues with service. I accept the undisputed affirmed evidence of both parties and find that both parties have been sufficiently served as per section 90 of the Act.

Issue(s) to be Decided

Is the tenant entitled to an order cancelling the 2 Month Notice?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

Both parties agreed that the landlord served the tenant with the 2 Month Notice dated December 22, 2017 by posting it to the rental unit door on December 22, 2017. The 2 Month Notice sets out an effective end of tenancy date of February 28, 2018 and the reason selected as:

All of the conditions of the sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this Notice because the purchaser or a close family member intends in good faith to occupy the rental unit.

The tenant argues that the purchaser of the rental property will not in good faith occupy the rental property. The tenant challenged the purchaser's good faith intent stating that the property is divided into three separate rental units and would not be appropriate for a single family. The tenant also argues that he has been unable to locate the purchaser to question them as to their intent and that their current residence could be better than occupying the rental property. The tenant has referred to the letter dated December 20, 2017 which was provided with the 2 Month Notice dated December 22, 2017 which the tenant has questioned. It states in part,

the selling process is completing now, so we are going to occupy whole of the property on the closing date by me, my spouse, my children and my parents.

Counsel for the purchaser stated that it is the purchaser's intent to occupy the property with her immediate family and with their extended family (on occasion) after renovations have been completed to make it a single family dwelling.

The tenant argued that he was not notified of any renovation plans by the purchaser and that this is contradicted by the purchaser's letter dated December 20, 2017.

Analysis

Section 49 (5) of the Act states that a landlord may end a tenancy if the landlord enters into an agreement in good faith to sell the rental unit, all the conditions for the sale of the unit have been satisfied and the purchaser has asked the seller, in writing to give notice to end the tenancy because the purchaser or a close family member intends in good faith to occupy the rental unit.

In this case, both parties confirmed that the landlord served the tenant with the 2 Month Notice dated December 22, 2017 by posting it to the rental unit door. The landlord has also provided undisputed testimony that all of the conditions of the sale have been satisfied and that the purchaser has provided, in writing, a request for the landlord to serve the tenant with the 2 Month Notice dated December 22, 2017. Both parties also confirmed that the purchaser has provided a copy of the written request.

According to subsection 49(8) of the Act, a tenant may dispute a notice to end tenancy for landlord's use by making an application for dispute resolution within fifteen days after the date the tenant receives the notice.

The tenant has argued that the purchaser will not in good faith occupy the property. The tenant has stated that the property is currently inappropriate as it is divided into 3 separate rental units and that the letter dated December 20, 2017 is inconsistent with the stated reason provided. Counsel for the purchaser has provided undisputed testimony that the purchaser and her

immediate family intend to occupy the property after renovations have been finished to make the property a true single family dwelling.

In reviewing the tenant's submissions, I find on a balance of probabilities that the landlord has provided sufficient evidence that the purchaser will in good faith occupy the property. The landlord's evidence is that the purchaser shall renovate and occupy the property after taking possession of the property. Although the tenant has argued the purchaser's good faith, I find that the letter referred to dated December 20, 2017 offer no inconsistencies that are contrary to the purchaser's intent to occupy the property. As such, the tenant's application to cancel the 2 Month Notice dated December 22, 2017 is dismissed. The 2 Month Notice is upheld. During the hearing the landlord made repeated requests for an order of possession to end the tenancy. Pursuant to Section 55 of the Act the landlord is granted an order of possession effective 2 days after service upon the tenant the effective date of the notice has now passed..

Conclusion

The tenant's application is dismissed without leave to reapply.
The landlord is granted an order of possession.

The order of possession must be served upon the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

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: March 01, 2018

Residential Tenancy Branch