



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FF

Introduction

This matter dealt with an application by the Tenant to cancel a 2 Month Notice to End Tenancy for the Landlord's Use of the property and to recover the filing fee.

The Tenant said he served the Landlord with the Application and Notice of Hearing (the "hearing package") by registered mail on February 2, 2016. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenants' hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

Issues(s) to be Decided

1. Is the Tenant entitled to an order to cancel the Notice to End Tenancy?

Background and Evidence

This tenancy started on February 15, 2017 as a one-year fixed term tenancy with and expiry date of February 28, 2018. Rent is \$1, 500.00 per month payable on the 1st day of each month. The Tenant paid a security deposit of \$750.00 at the start of the tenancy.

The Landlord's agent said she served the Tenants with a 2 Month Notice to End Tenancy for Landlord's Use of the Property dated January 18, 2018 on January 18, 2018 by registered mail. The Notice has an effective vacancy date of March 31, 2018. The Landlord's agent continued to say that her clients the owners of the property are planning to move into the property as soon as possible. The Agent said the Owners originally thought the tenancy would end on the expiry date of the tenancy agreement February 28, 2018 and then was some discussions with the Tenants to extend the tenancy. There was a discussion to extend the tenancy and to have a Mutual End of Tenancy Agreement for July 16, 2018. This extension was not agreed to by the parties. The Agent said the owners instructed her to issue a 2 Month Notice to End Tenancy for Landlord's Use of the Property and the Owners would use the property themselves. The Agent gave affirmed testimony that the Owners were moving into the unit and that they were not going to rent the unit again.

The Tenant said the Owners have another home in a different part of the Province, so this property is not going to be the Owner's primary residence. The Tenant thought this unit maybe a vacation home for the Owners. As well the Tenant said they believe from the emails and communications with the Owner and Agent that the Owners are ending the tenancy so that they can increase the rent or have some other financial gain. The Tenant said he does not believe the Owner and Agent are acting in good faith. Further the Tenant said that if he must move it will be a great inconvenience for his family, his partners family and his involvement in the volunteer fire department will be negatively affected. The Tenant said he does not believe the Owners are acting in good faith and he does not think the Owners are going to live in the rental unit.

The Landlord's Agent said she has been instructed by the Owners to end the tenancy so that the Owners can move into the property.

The Landlord's Agent said in closing the owners want to end the tenancy as soon as possible, but as the April 2018 rent is paid they will agree to end the tenancy on April 30, 2018.

The Tenant said in closing that he believes the Landlord is not acting in good faith. The Tenant said it will be difficult for him to find a new rental unit and he requested to end the tenancy on May 31, 2018.

The Landlord's Agent said in closing April 30, 2018 is all she is authorized to offer.

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 Agent's affirmed testimony that the Landlords/Owners are moving into the unit as soon as they are able to. Consequently, I find the Tenants have 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 Tenants' request to cancel the Notice to End Tenancy dated January 18, 2018 and pursuant to section 55 of the Act I grant the Landlord/Owner an Order of Possession effective April 30, 2018 at 1:00 p.m.

As the Tenants have been unsuccessful in this matter I order the Tenants to bear the cost of the filing fee of \$100.00 which is already paid.

Conclusion

The Tenant's application to cancel the Notice to End Tenancy is dismissed without leave to reapply.

An Order of Possession effective April 30, 2018 has been issued to the Landlord. A copy of the Order must be served on the Tenants 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: April 4, 2018

Residential Tenancy Branch