



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNL

Introduction

Both parties attended the hearing and gave sworn testimony. They confirmed the Notice to End Tenancy dated February 25, 2018 to be effective April 30, 2017 was served personally. The tenant /applicant gave evidence that they served the Application for Dispute Resolution dated April 5, 2018 by registered mail and the landlord agreed they received it. The tenant said she was late in filing the Application for she had problems obtaining a letter from the Ministry to have the filing fee waived. I find the documents were legally served pursuant to sections 88 and 89 of the Act for the purposes of this hearing. The tenant applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To cancel a notice to end tenancy for landlord's use of the property pursuant to section 49.

Preliminary Issue:

Section 49 of the Act provides that a tenant has 15 days to dispute after receiving the Notice to End Tenancy. The tenant asked that she be granted more time due to the circumstances. I find her financial circumstances did not allow her to pay the filing fee and it took some time to get the necessary proof to have it waived. I grant her the additional time as it was due to her hardship.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that they need to end the tenancy in order to have the property for their own use? Or is the tenant entitled to any relief? Is the landlord entitled to an Order of Possession if the tenant is unsuccessful in the application?

Background and Evidence

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced in 2009 with the tenant's father and continued with her after he died in 2016. Rent is \$500 a month and a security deposit of \$225 was paid. The landlord served a Notice to End Tenancy for the following reasons:

The rental unit will be occupied by the landlord or the landlord's close family member (parent, spouse or child).

The landlord has problems with English and her daughter explained that her brother was moving back to the community to do his clinical work for a year and then hoped to get a local job. The landlord does not intend to charge him rent.

The tenant contended that the landlord is lying. She suggested the landlord take her rent and rent the brother a place elsewhere; the landlord was not interested in that suggestion as they want the brother to live there. The tenant asked if the landlord had to contribute to her moving expenses. I explained that she was entitled to one month free rent pursuant to section 51 of the Act but that did not include moving expenses.

Included with the evidence are the Notice to End Tenancy and the letter pertaining to the waiver of the filing fee. On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached..

Analysis:

As discussed with the parties in the hearing, the onus is on the landlord to prove on a balance of probabilities that they have good cause to evict the tenant. I find the evidence of the landlord credible and I prefer it to the evidence of the tenant in respect to the landlord's son moving into the unit in June 2018 while he completes his clinical work as a lab technician. I find insufficient evidence that the landlord is not being truthful.

For the above reasons, I dismiss the application of the tenant to cancel the Notice to End Tenancy. I find the tenancy is terminated on April 30, 2018 according to the Notice to End Tenancy. Pursuant to section 55 of the Act, I find the landlord is entitled to an Order of Possession effective June 1, 2018 as she requested.

Conclusion:

The Application of the Tenant to set aside the Notice to End Tenancy is dismissed. An Order of Possession is issued to the landlord effective June 1, 2018.

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: May 15, 2018

Residential Tenancy Branch