



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNL, MNDCT, RP, LAT, RR

Introduction

The tenant filed an Application for Dispute Resolution (“application”) under the *Residential Tenancy Act* (“Act”) to cancel a 2 Month Notice to End Tenancy for Landlord’s Use of Property dated May 15, 2018 (“2 Month Notice”), for an order for regular repairs to the unit, site or property, for a monetary claim of \$468.00 for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, for an order to suspend or set limits on the landlord’s right to enter the rental unit, and for a rent reduction.

The tenant, female landlord JB (“landlord”) and a support person for the landlord attended the teleconference hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained to the parties and an opportunity to ask questions was provided to the parties on several occasions. The parties were provided with the opportunity to submit documentary evidence prior to this hearing, to present affirmed oral testimony evidence and to make submissions to me.

Preliminary and Procedural Matters

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure (“rules”) authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the tenant indicated several matters of dispute on the application, the most urgent of which is the application to set aside the 2 Month Notice. I find that not all the claims on the application are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenant’s request to set aside the 2 Month Notice at this proceeding. The balance of the tenant’s application is dismissed, **with leave to re-apply**. I note that there were no service issues raised regarding the 2 Month Notice portion of the application was the only matter before me once I severed the tenant’s application pursuant to rule 2.3 of the rules as indicated above.

In addition to the above, the parties confirmed their email addresses at the outset of the hearing. The parties confirmed their understanding that the decision would be emailed to both parties. Any applicable orders will be emailed to the appropriate party.

Issue to be Decided

- Should the 2 Month Notice be cancelled?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy began on January 1, 2013. Monthly rent of \$565.00 is due on the first day of each month and was increased during the tenancy to the current monthly rent amount of \$665.00. A security deposit of \$280.00 was paid by the tenant at the start of the tenancy.

The tenant confirmed that she was served on May 15, 2018 with the 2 Month Notice dated May 15, 2018. The effective vacancy date on the 2 Month Notice is listed as August 1, 2018. The tenant disputed the 2 Month Notice on May 24, 2018 which was within the allowable time limitation under the Act of 15 days. Page two of the 2 Month Notice indicates the reason as "The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse."

The tenant indicated that she was disputing the 2 Month Notice because she did not believe the landlord's son, the landlord's daughter-in-law and the landlord's grandchild were planning on moving in to the rental unit. The landlord testified that she provides childcare for their grandchild and that her son, his wife and their daughter were planning on occupying the rental unit as they need more space as their daughter grows.

Although the landlord testified that the tenant was advised of this plan verbally before the 2 Month Notice was served on the tenant, the tenant disputed that she was advised verbally before receiving the 2 Month Notice.

The tenant alleges that the 2 Month Notice was issued in response to the tenant making an application for repairs to the rental unit. The landlord disputed that allegation and stated that the only reason the 2 Month Notice was issued was so the landlord's son, his wife and their daughter could have more space and have access to the second kitchen and storage.

The tenant stated that she does not think the wife of the landlord's son cooks but did not provide any supporting evidence in supports of that allegation. The tenant stated that she heard the landlord mumble that once served with the tenant's application for repairs that the landlord stated she would just evict her. The tenant also stated that her mother was present to hear the landlord. The tenant did not present her mother as a witness and did not submit a statement from her mother in evidence. The landlord vehemently denies that she stated anything of that sort and has issued the 2 Month Notice in good faith.

In support of the 2 Month Notice, the landlord submitted a letter signed by her son SB which indicates that he, his wife and their daughter plan to occupy the rental unit as they need more space for their growing family.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

2 Month Notice to End Tenancy for Landlord's Use of Property – The tenant disputed the 2 Month Notice by stating that she did not believe the landlords were going to move into the rental unit. The reason indicated on the 2 Month Notice is “The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse.” The landlord testified that her son, her son's spouse, and their child will be moving into the rental unit and that the landlord provides childcare for her granddaughter so that the additional room for her son's growing family is necessary. I afford considerable weight to the letter signed by the landlord's son which I find fully supports the landlord's testimony and the reason listed on the 2 Month Notice.

I afford little weight to the tenant's allegation that the landlord mumbled that she would just evict the tenant as the tenant did not present her mother as a witness, nor did the tenant submit a statement from her mother in support of that allegation. In addition, I find the tenant's allegation that the landlord's daughter-in-law does not cook to be unfounded and irrelevant as there is no restriction on who could cook in the kitchen, that there are many uses for a kitchen other than cooking, and there is no supporting evidence to support such a claim in any event.

Based on the above and on the balance of probabilities, I find that the landlords have met the burden of proof and I find the 2 Month Notice issued by the landlords to be valid. The landlord has the right to stop being a landlord and to take over the rental unit for the stated use in the 2 Month Notice. Therefore, **I dismiss** the tenant's application to cancel the 2 Month Notice and **I uphold** the 2 Month Notice issued by the landlord with an effective vacancy date of August 1, 2018. Section 55 of the Act applies and states:

Order of possession for the landlord

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, **the director must grant to the landlord an order of possession of the rental unit if**

(a) **the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and**

(b) **the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.**

[My emphasis added]

Given the above and taking into account that I find the 2 Month Notice complies with section 52 of the *Act*, **I grant** the landlords an order of possession effective **August 1, 2018 at 1:00 p.m.**, which is the effective date on the 2 Month Notice.

Conclusion

I dismiss the tenant's application to cancel the 2 Month Notice without leave to reapply. I uphold the 2 Month Notice issued by the landlords.

The portion of the tenant's application mentioned above is dismissed with leave to reapply.

The landlords have been granted an order of possession effective August 1, 2018 at 1:00 p.m. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

I find the tenancy ends on August 1, 2018 at 1:00 p.m.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: June 20, 2018

Residential Tenancy Branch