



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNL, OLC, FFT

Introduction

The tenants 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 April 29, 2018 (“2 Month Notice”), for an order directing the landlord to comply with the *Act*, regulation or tenancy agreement, and for the recovery of the cost of the filing fee.

The tenants and 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. 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.

Neither party raised any concerns regarding the service of documentary evidence and did confirm that they were served with documentary evidence and had the opportunity to review that evidence prior to the hearing.

Preliminary and Procedural Matter

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.

Issues to be Decided

- Should the 2 Month Notice be cancelled?
- Should the landlord be directed to comply with the *Act*, regulation or tenancy agreement?

- Are the tenants entitled to the recovery of the cost of the filing fee under the *Act*?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy began on February 1, 2012 according to the tenants as the start date was missing from the tenancy agreement. The landlord testified that he purchased the property from the former landlord in 2017. The parties agreed that monthly rent was \$1,000.00 per month and due on the first day of each month.

The tenants confirmed that they were served on April 29, 2018 with the 2 Month Notice dated April 29, 2018. The effective vacancy date on the 2 Month Notice is listed as June 30, 2018. The tenants disputed the 2 Month Notice on May 11, 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 “All of the conditions for 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 tenants write in their application that they do not believe the home is sold and that the 2 Month Notice is valid as a result.

The parties confirmed that the rental unit is a single family home with no suite. The landlord submitted a signed letter from the purchaser FP that he wanted the landlord to issue the 2 Month Notice to the tenants on his behalf which is what the landlord did. In addition, the landlord provided a copy of a letter dated June 27, 2018 from the office of a Notary Public indicated that the sale of the rental unit was completed and transferred in the Land Title Office as of June 27, 2018.

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 tenants disputed the 2 Month Notice by stating that they did not believe the rental unit was sold and required vacant possession. The reason indicated on the 2 Month Notice is “All of the conditions for 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.” I find the supporting evidence from the landlord supports that the rental property has sold to purchaser FP and that FP signed a letter also submitted in evidence indicating that the purchaser FP

requested in writing for the landlord to issue the 2 Month Notice on the purchaser's behalf.

Based on the above and on the balance of probabilities, I find that the landlord has met the burden of proof and I find the 2 Month Notice issued by the landlord to be valid. Therefore, **I dismiss** the tenants' application to cancel the 2 Month Notice and **I uphold** the 2 Month Notice issued by the landlord with an effective vacancy date of June 30, 2018 which has already passed. 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 landlord an order of possession effective **two (2) days after service on the tenants**. I find there is insufficient evidence before me that any money was paid for use and occupancy of the rental unit for July 2018. I have reached this finding as the landlord testified that he attended the rental unit and the female tenant wanted him to sign a document that stated that rent for July 2018 was being paid to the new landlord which the landlord refused to do as the purchaser wanted vacant possession of the property being purchased. I have also considered that the tenants failed to provide any supporting documentary evidence such as an e-transfer receipt or other banking information to support that money for use and occupancy was paid to the landlord for July 2018.

I do not grant the filing fee as a result. I also find that it is not necessary to consider the remainder of the tenants' application as I find the tenancy ended on June 30, 2018 which was the effective date of the 2 Month Notice.

Conclusion

I dismiss the tenants' application to cancel the 2 Month Notice without leave to reapply. I uphold the 2 Month Notice issued by the landlord.

The landlord has been granted an order of possession effective two (2) days from service on the tenants. This order must be served on the tenants and may be enforced in the Supreme Court of British Columbia.

The tenancy ended on June 30, 2018.

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: July 11, 2018

Residential Tenancy Branch