



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL

Introduction

This teleconference hearing was scheduled in response to an application by the Tenants under the *Residential Tenancy Act* (the “Act”) to cancel a Two Month Notice to End Tenancy for Landlord’s Use of Property (the “Two Month Notice”).

The Landlord and both Tenants were present for the duration of the teleconference hearing. The Landlord confirmed receipt of the Notice of Dispute Resolution Proceeding package by registered mail. The Tenants confirmed receipt of a copy of the Landlord’s evidence. I find that the Notice of Dispute Resolution Proceeding package was duly served in accordance with Section 89 of the *Act*.

All parties were affirmed to be truthful in their testimony and were provided with the opportunity to present evidence, make submissions and question the other party.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issues to be Decided

Should the Two Month Notice to End Tenancy for Landlord’s Use of Property be cancelled?

If the Two Month Notice to End Tenancy for Landlord’s Use of Property is upheld, is the Landlord entitled to an Order of Possession?

Background and Evidence

The parties were in agreement as to the details of the tenancy. The tenancy began on February 1, 2018. Rent in the amount of \$1,400.00 is due on the first day of the month. A security deposit in the amount of \$700.00 was paid at the outset of the tenancy. No tenancy agreement was signed, and the parties confirmed that a month to month verbal agreement was established.

The Landlord testified that on May 22, 2018, he served the Tenants in person with the Two Month Notice. The Two Month Notice was submitted into evidence and states the effective end of tenancy date as July 31, 2018. The notice states the following reason for ending the tenancy:

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

The Landlord testified that the current home he is living in has sold and the new owners will be taking possession on August 1, 2018. The Contract of Purchase and Sale was submitted into evidence. The Landlord testified that he will be moving into the rental unit on August 1, 2018, and therefore requires the Tenants to vacate by July 31, 2018.

The Landlord stated that he offered the Tenants two months of rental compensation for the inconvenience of having to move. However, he confirmed that the Tenants did not accept his offer and also did not accept one month of compensation as outlined in the *Act*. The Landlord confirmed that the Tenants have paid rent for July 2018.

The Tenants confirmed that they received the Two Month Notice in person on May 22, 2018. They expressed that they were upset that the Landlord had not informed them earlier that he would be selling his home and moving into the rental unit, as they wanted a long-term rental. Due to the current state of the rental market, they have had difficulty finding a new rental unit.

The Tenants testified that they are not questioning that the Landlord needs to move into the rental unit, however they would like more time to move and find a rental. The Landlord confirmed that he is not able to provide more time as the conditions of the sale require him to vacate his current home on August 1, 2018.

Analysis

I refer to Section 49(3) of the *Act* which states the following:

(3) 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.

I also refer to *Residential Tenancy Policy Guideline 2: Ending a Tenancy: Landlord's Use of Property* which outlines the definition of 'good faith' as the following:

Good faith is a legal concept, and means that a party is acting honestly when doing what they say they are going to do or are required to do under legislation or a tenancy agreement. It also means there is no intent to defraud, act dishonestly or avoid obligations under the legislation or the tenancy agreement.

I accept the testimony and evidence of the Landlord that he intends, in good faith, to occupy the rental unit. The Contract of Purchase and Sale submitted into evidence confirms the possession date of the Landlord's current home as August 1, 2018. Therefore, I find it reasonable that the Landlord would require possession of the rental unit on July 31, 2018.

Based on the above findings, I uphold the Two Month Notice, dated May 22, 2018. In review of the Two Month Notice, I also determine that it is in compliance with Section 52 of the *Act*.

On a tenant's application to cancel a notice to end tenancy, pursuant to Section 55(1) of the *Act*, if the notice is upheld during the hearing and the notice is in compliance with Section 52 of the *Act*, an Order of Possession must be granted to the Landlord. As such, I issue an Order of Possession to the Landlord effective July 31, 2018 at 1:00 pm. This Order must be served on the Tenants.

Section 51(1) of the *Act* states that a tenant who has received a notice under Section 49 is entitled to compensation equivalent to one month of rent. As both parties confirmed that this was not yet provided, I find that the Tenants are entitled to compensation in the amount of \$1,400.00, which must be provided to the Tenants by July 31, 2018.

Conclusion

I grant an Order of Possession to the Landlord effective **July 31, 2018 at 1:00 pm.**
Should the Tenants fail to comply with this Order, this Order may be filed and enforced
as an Order of the Supreme Court of British Columbia.

The Tenants are entitled to one month of compensation from the Landlord in the
amount of **\$1,400.00** pursuant to Section 51(1) of the *Act*.

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: July 24, 2018

Residential Tenancy Branch