



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1074582 BC LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL, FFT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the corporate landlord's (the landlord's) 4 Month Notice to End Tenancy for Landlord's Use of Property (the 4 Month Notice) issued by the Landlord AG pursuant to section 49; and
- authorization to recover the filing fee for this application from the landlords pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

As the tenant confirmed that he was handed the 4 Month Notice by one of the landlords on May 29, 2018, I find that the tenant was duly served with this Notice in accordance with section 88 of the *Act*. As the landlords' representatives confirmed that they received a copy of the tenant's dispute resolution hearing package sent by the tenant by registered mail on June 10, 2018, I find that the landlords were duly served with this package in accordance with section 89 of the *Act*. Since all parties confirmed that they had received one another's written evidence, I find that the written evidence was served in accordance with section 88 of the *Act*.

Issues(s) to be Decided

Should the landlord's 4 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession? Is the tenant entitled to recover the filing fee for this application from the landlords?

Background and Evidence

The tenant gave undisputed sworn testimony that he first took occupancy of this manufactured home on November 1, 2001. The tenant's current monthly rent is set at \$385.00, payable in advance on the first of each month. There is no security deposit for this tenancy.

The 4 Month Notice issued by Landlord AG as the principal for the corporate landlord identified the following reason for ending this tenancy for landlord's use of this property:

I am ending your tenancy because I am going to...

- *convert the rental unit to a non-residential use.*

Written evidence from the landlord and Landlord AG reported that the tenant's manufactured home was needed for relocation to a worksite where it would be used as an office or eating area for those working on this worksite. The worksite is in another municipality on property owned by the landlord and Landlord AG.

At the hearing, Agent TN, representing the landlord and Landlord AG, testified that the property where the manufactured home is going to be moved to has not yet been rezoned for redevelopment, nor have any building permits or any other approvals been obtained from that municipality. Agent TN testified that this redevelopment application is to seek rezoning approval to permit the construction of single family homes. Agent TN testified that the landlord was anticipating that these approvals would be obtained by October 1, 2018, the effective date identified in the 4 Month Notice.

Analysis

Although the tenant applied to cancel the 4 Month Notice, the burden of demonstrating that an end of tenancy is required rests with the landlord. Paragraph 49(6)(a) of the *Act* reads in part as follows:

49 (6) *A landlord may end a tenancy in respect of a rental unit if the landlord has all the necessary permits and approvals required by law, and intends in good faith, to do any of the following:...*

(f) convert the rental unit to a non-residential use.

In this case, the landlord did not complete the portion of the 4 Month Notice immediately following the stated reason for ending this tenancy. This portion of the Residential Tenancy Branch's 4 Month Notice form asks the landlord to indicate whether or not all permits and approvals required by law to do this work have been obtained. In this instance, Agent TN gave sworn testimony that not only had permits and approvals to enable the relocation of the tenant's rented manufactured home not been obtained, but that the property itself where the home is to be moved has not even been rezoned for the single family homes redevelopment that the landlord is planning to construct there.

Under these circumstances, I find that the landlord's 4 Month Notice was issued prematurely and without the necessary approvals and permits required by law in place. For these reasons, I allow the tenant's application to cancel the 4 Month Notice.

Since the tenant has been successful in this application, I allow the tenant to obtain the recovery of the \$100.00 filing fee for this application from the landlords who issued the 4 Month Notice.

Conclusion

I allow the tenant's application to cancel the 4 Month Notice. The 4 Month Notice is of no continuing force or effect and this tenancy continues until ended in accordance with the *Act*.

As the tenant has been successful, I issue a monetary Order in the amount of \$100.00, to enable the tenant to recover the filing fee for this application. The tenant is provided with these Orders in the above terms and the corporate landlord and Landlord AG must be served with this Order as soon as possible. Should these landlords fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

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 30, 2018

Residential Tenancy Branch