



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FF

Introduction

This hearing dealt with the tenant's application for dispute resolution, seeking to cancel a notice to end tenancy issued by the landlord for landlord's use of the property. The tenant also applied for the recovery of the filing fee.

Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. Both parties represented themselves.

As both parties were in attendance I confirmed service of documents. The parties confirmed receipt of each other's evidence. I find that the parties were served with evidentiary materials in accordance with sections 88 and 89 of the *Act*.

Issues to be Decided

Has the landlord validly issued the notice to end tenancy and does the landlord have the necessary permits required by law?

Background and Evidence

The tenancy started on October 31, 2012. The current landlord purchased the rental property in 2014 and the tenancy continued on. The current monthly rent is \$1,086.00 payable on the first of each month. The landlord testified that the house was built in the sixties and most of the fixtures were original.

The landlord stated that she decided to do extensive renovations in the house that would require the unit to be vacant. The landlord testified that she visited the local municipality office to inquire about permits for the renovations she intended to carry out and was informed that permits were not required.

On April 28, 2018, the landlord served the tenant with a two month notice to end tenancy for landlord's use of property. The effective date of the notice was June 30, 2018. The reason the landlord gave the notice to the tenant is described as, the landlord has all necessary permits and approvals required by law to demolish or repair the rental unit in a manner that requires the unit to be vacant. The tenant disputed the notice in a timely manner.

During the hearing, the landlord testified that she had consulted with various trades' professionals and learnt that for the scope of the renovations she intended to carry out; the rental unit had to be vacant.

The tenant testified that the kitchen and bathroom had been repaired and updated prior to the start of tenancy and did not require any work. The landlord agreed that she had no plans to renovate the bathroom but stated that some of the work done in the kitchen was badly done by the previous landlord. The tenant stated that she did not have any complaints and requests for repairs inside the unit. The only work that she was requesting was the seeding of the lawn and the repair of the eaves.

The landlord added that she had purchased the home as an investment for retirement and wanted to update it. She agreed that she would be asking for a higher rent of \$1,600-\$1,700 upon renovation and quoted the market rent as being \$1,800.00. The tenant testified that the landlord served her the notice to end tenancy for the sole purpose of getting a higher rent.

The landlord responded by saying that even with a higher rent it would take about six years to cover the cost of the renovations and therefore a higher rent was not her objective of serving the tenant with a notice to end tenancy. The landlord stated that she wished to update her investment since most of the fixtures were as old as the house.

The landlord stated that she intended to change the kitchen cabinets and have air conditioning installed in the rental unit. The landlord also stated that she would have carpentry work, drywall repairs, electrical work and painting done in the entire house except for the bathroom. The landlord stated that this work required coordination between all the trades' people and would be carried out in a manner that required the unit to be vacant.

Analysis

The Act requires all the necessary permits and approvals required by law, to be obtained prior to the landlord issuing such a notice to end tenancy under section 49 of the *Residential Tenancy Act*. The permits that the landlord was required to have in hand were permits to demolish or repair the rental unit in a manner that requires the unit to be vacant.

In this case the landlord intends to renovate the rental unit and has determined that permits are not required for the scope of work she intends to undertake. I find that the landlord has no intentions of repairing or demolishing the unit. Therefore I find that the notice to end tenancy was not served for the purpose of repairing or demolishing the rental unit in a manner that requires the unit to be vacant. Accordingly, I find that the notice to end tenancy must be set aside and the tenancy will continue.

Since the tenant has proven her case, she may recover the filing fee from a future rent.

Conclusion

The notice to end tenancy is set aside and the tenancy will continue. The tenant may make a onetime deduction of \$100.00 from a future rent.

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 12, 2018

Residential Tenancy Branch