



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL

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 the landlord's use of property.

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. In addition to attending the hearing themselves, the landlords were also represented by legal counsel.

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

Have the landlords validly issued the notice to end tenancy and do the landlords intend, in good faith, to use the rental unit for themselves and their close family members?

Background and Evidence

The landlords' property consists of a two level home with an attached garage. The home is occupied by the landlord and his family. The rental unit is a one bedroom suite located over the garage.

The parties agreed that the tenancy started on April 01, 2017. The tenant pays \$800.00 per month. On June 25, 2018, the landlord served the tenant with a two month notice to end tenancy for landlord's use of property, to be effective on September 01, 2018. The notice was posted on the tenant's door.

The reason the landlord gave the notice to the tenant is described as, the rental unit will be occupied by the landlord or the landlord's spouse or a close family member of the landlord or the landlord's spouse. The tenant disputed the notice in a timely manner.

The landlord stated that his adult daughter was expecting a child in early October 2018 and intended to occupy the rental unit full time after the birth and possibly part time later on. The female landlord also added that she intended to baby sit her grandchild and needed the space to be separate from the main home because of the pets that the landlord had in her home.

The tenant stated that she believed that the notice was served in good faith and also believed that the landlord would use the rental unit to accommodate her daughter and the expected child. The tenant stated that she disputed the notice for the sole purpose of obtaining additional time to find a new rental unit. The tenant requested the end of tenancy to be postponed to October 31, 2018. The landlord testified that her grandchild was due in early October and therefore was unable to oblige but agreed to extend the tenancy to September 30, 2018.

Analysis

When the tenant alleges bad faith on the part of the landlord, the landlord has an onus to prove they are acting in good faith. However in this case the tenant testified that she believed that the notice to end tenancy was served in good faith by the landlord. Since the landlord has met the good faith requirement of the legislation I find that the notice to end tenancy must be upheld and accordingly I dismiss the tenant's application.

Section 55 of the *Residential Tenancy Act* addresses an order of possession for the landlord and states:

- 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.

In this case, I find that the landlord served the tenant with a notice to end tenancy that complies with section 52 (form and content of notice to end tenancy). Since the landlord has met the good faith requirement, I have dismissed the tenant's application for dispute resolution and have upheld the notice to end tenancy.

Under the provisions of section 55, I must issue an order of possession when I have upheld a notice to end tenancy. Accordingly, I so order. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Conclusion

The notice to end tenancy is upheld and I grant the landlord an order of possession effective by **1:00 p.m. on September 30, 2018.**

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: September 06, 2018

Residential Tenancy Branch