



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. The participatory hearing, via telephone conference call, was held on January 3, 2019. The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- Cancel the Landlord's 2-Month Notice to End Tenancy for Landlord's Use of Property (the Notice).

The Tenant attended the hearing. Both Landlords were present. All parties provided affirmed testimony. Both sides were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. Both parties confirmed receipt of each other's evidence.

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(s) to be Decided

- Is the Tenant entitled to have the Landlord's Notice cancelled?
 - If not, is the Landlord entitled to an Order of Possession?

Background and Evidence

The Tenant acknowledged receiving the Notice on October 31, 2018. The Landlords issued the Notice for the following reason:

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).

In the hearing, the Landlord stated that they issued the Notice for two reasons. The first being that their relationship with the Tenant has soured, and become adversarial. The second being that their nephew wants to move into the rental unit. The Landlords acknowledged that their nephew is not a close family member as set out on the Notice, but they feel it is best for everyone if the tenancy ends.

The Tenant stated he would like to stay living in the rental unit, despite some amount of conflict that has occurred. The Tenant stated that the Notice should be cancelled because the Landlord is not able to end the tenancy based on their nephew moving in.

Analysis

In the matter before me, the Landlord has the onus to prove that the reason in the Notice is valid and that they or their close family member intend in good faith to occupy the unit (as indicated on his 2-Month Notice).

Based on the evidence and testimony before me, I make the following findings:

I acknowledge that there has been degradation in the relationship between the Landlords and the Tenant. However, I note the Landlord is not able to end the tenancy based on a 2-Month Notice in situations where the relationship is not going well. Further, I also note the Landlord stated they issued this Notice because their nephew wants to move in. However, the Notice is clear in that a close family member must be a:

“parent, spouse or child; or the parent or child of that individual's spouse”

In this case, the onus is on the Landlord to substantiate the Notice, and I find that the Landlord has not provided sufficient evidence to support the reason to end the tenancy at this time. There is no evidence that the Landlord or their close family member (as defined on the Notice) will be moving into the rental unit. Therefore, the Tenant's application is successful and the Notice received by the Tenant on October 31, 2018, is cancelled. I order the tenancy to continue until ended in accordance with the *Act*.

Conclusion

The Tenant's application is successful. The Notice is cancelled.

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: January 4, 2019

Residential Tenancy Branch