



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding TANGSTON HOME AT FRENCH LTD. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL- 4M FFT

Introduction

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

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

The Applicant (tenant) did not attend this hearing. The landlord's agents LT and PT attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions.

As the landlord confirmed service of the tenant's application and evidence, I find that the landlord was duly served with the tenant's application and evidence in accordance with section 89 of the *Act*. The landlord did not submit any written evidence for this hearing.

The landlord testified that the tenant was personally served with landlord's 4 Month Notice to End Tenancy for Landlord's Use of Property ("4 Month Notice") on December 3, 2018. Accordingly, I find the tenant duly served with the 4 Month Notice 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?

Background and Evidence

This month-to-month tenancy began on February 1, 2018. The tenant continues to reside in the rental unit.

The landlord issued the 4 Month Notice on December 3, 2018, with an effective move-out date of April 3, 2019. The reason provided on the 4 Month Notice is that the landlord is going to demolish the rental unit, and that they have all the permits and approvals by law to do the work.

The landlord's agents testified that they did have the permits and approvals to demolish the rental unit, but did not submit these permits and approvals in their evidence.

Analysis

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

In the absence of any evidence or submissions from the applicant in the hearing, I order the tenant's application dismissed without liberty to reapply.

Section 55(1) of the *Act* reads as follows:

- 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.

Section 52 of the *Act* requires that the above Notice complies with the *Act*, specifically, that the Notice must: be in writing and must: (a) be signed and dated by the landlord or

tenant giving the notice, (b) give the address of the rental unit, (c) state the effective date of the notice, (d) state the grounds for ending the tenancy, and (e) be in the approved form.

Subsection 49(6) of the *Act* sets out that a landlord may end a tenancy in respect of a rental unit where the landlord, in good faith, has all the necessary permits and approvals required by law and intends in good faith, to demolish the rental unit or home.

The landlord did not submit any written evidence, including copies of the necessary permits and approvals required by law. In the absence of these documents, I am unable to verify that the landlord had all the necessary permits and approvals required by law to demolish the home as required by section 49(6) of the *Act*.

The landlord's 4 Month Notice, dated December 4, 2018, is hereby cancelled and of no force and effect. This tenancy continues until it is ended in accordance with the *Act*.

Conclusion

The tenant's entire application is dismissed without leave to reapply.

The landlord's 4 Month Notice, dated December 4, 2018, is cancelled and of no force or effect. This tenancy continues until it is ended in accordance with 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: February 12, 2019

Residential Tenancy Branch