



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 pursuant to section 49 of the Residential Tenancy Act (the "Act") to dispute a landlord's 2 Month Notice to End Tenancy for Landlord's Use (the "2 Month Notice").

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. The landlord was assisted by counsel.

As both parties were present service of documents was confirmed. The tenant confirmed receipt of the 2 Month Notice dated March 18, 2019 on or about that date. The landlord confirmed receipt of the tenant's application of March 27, 2019 and evidentiary materials. The landlord testified that they had not served any evidence. Based on the testimonies I find that the parties were each served with the respective materials in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Should the 2 Month Notice be cancelled? If not is the landlord entitled to an Order of Possession?

Background and Evidence

The parties agreed on the following facts. The landlord assumed this tenancy sometime in 2015 when the landlord purchased the rental property. The tenant testified that the tenancy originally began in 2012. The current monthly rent is \$1,050.00 payable on the

first of each month. The rent was reduced from \$1,250.00 by an order made by another arbitrator at a previous hearing.

There have been several other hearings regarding this tenancy under the file numbers on the first page of this decision. The previous hearings have dealt with other Notices to End Tenancy issued by the landlord.

The present 2 Month Notice dated March 18, 2019 states that the reason for this tenancy to end is that the landlord, or a close family member, intends to reside in the rental unit. The landlord testified that they have sold the property they currently reside at and intend to move into the rental unit. The landlord did not provide any documentary evidence in support of their submission.

The tenant disputes the landlord's evidence. Among the documentary evidence submitted by the tenant was correspondence with a realtor who performed a search for the landlord's residence during March, 2019 and found that it was not listed for sale. The tenant further submits that the repeated attempts by the landlord to end this tenancy shows that there are ulterior motives for issuing the present 2 Month Notice.

Analysis

Section 49 of the Act provides that upon receipt of a 2 Month Notice the tenant may, within 15 days; dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant files an application to dispute the notice, the landlord bears the burden to prove the grounds for the 2 Month Notice on a balance of probabilities.

In the present circumstance the tenant received the 2 Month Notice on or about March 18, 2019 and filed their application for dispute on March 27, 2019. I find that the tenant filed their application within the 15 days prescribed under the *Act*.

The landlord testified that they have sold their current residence and intend to move into the rental unit. In the absence of documentary evidence showing that the landlord's residence was placed on the market or sold I find that there is insufficient evidence in support of the landlord's submission. I find that the landlord's testimony lack credibility as they failed to provide cogent details regarding the sale of their property and did not provide any documentary evidence in support of their submissions.

I find that the landlord has failed to establish on a balance of probabilities that the tenancy should end for the reason provided on the 2 Month Notice. The landlord has not met their onus of proof and therefore the 2 Month Notice, dated March 18, 2019 is cancelled and of no further force or effect. This tenancy continues until it is ended in accordance with the *Act*.

Conclusion

The tenant's application is successful. The 2 Month Notice, dated March 18, 2019, 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: May 13, 2019

Residential Tenancy Branch