



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL – 4M

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant filed under the Residential Tenancy Act (the “Act”), to cancel Four Month Notice to End Tenancy for Conversion of the Rental Unit (the “Notice”) issued on October 25, 2019.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

In a case where a tenant has applied to cancel a Notice, Rule 7.18 of the Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlords have the burden of proving sufficient evidence to terminate the tenancy for the reasons given on the Notice. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Should the Notice be cancelled?

Background and Evidence

The tenancy began on June 1, 2018. Rent in the amount of \$700.00 was payable on the first of each month. The tenant paid a security deposit of \$300.00.

The parties agreed that the Notice was served on the tenant indicating that the tenant is required to vacate the rental unit on March 1, 2020.

The reason stated for ending the tenancy is to convert the rental unit to a non-residential use.

The landlords testified that the subject property is on a gravel pit and in the past the rental unit had always been used for business purposes. The landlord stated that they rented the premises to the tenant as they were in the process of closing down the gravel pit as they had used all the resources.

The landlords testified that they were able to purchase a secondary gravel pit and are able to use the subject property as a screening plant. The landlords stated that the subject property has been screening some gravel in the last couple of months; however, they expect the plant to be in full operations in the spring. File in evidence is contract of purchase and sale of the secondary gravel pit, dated after the tenancy commenced.

The landlords testified that they need the subject rental unit to convert back to the original use for business purposes.

The tenant does not dispute the subject property is a gravel pit and the rental unit was previously used to accommodate the business. The tenant stated they were informed when they rented the property that the gravel pit was going to be decommissioned.

The tenant testified that they do not dispute that the property will be used for the stated purpose; however, the Notice was only issued after there was a conversation with the landlord about the landlord's dogs barking and they were informed at that time they could move. The tenant stated they were also informed at this time that the gravel pit would be operating again in the Spring of 2020.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I have considered all of the written and oral submissions submitted at this hearing, I find that the landlords have provided sufficient evidence for ending the tenancy.

In this case, the subject property is a gravel pit and the premises on the site was previously used for business purpose.

While I accept the evidence of both parties that the gravel pit was going to be deactivated due to lack of resource; however, the landlords were able to purchase a second gravel pit and are going to be using the current site for screening. I find this is

reasonable based on the fact that this property has always been operated as a gravel pit business.

While I accept the evidence of the tenant that the Notice was only issued after a dispute about the landlord's dogs barking; however, they were also informed at the same time that the gravel plant would be in full operation by the spring of 2020. This does not lead me to believe that the landlords have an ulterior motive to end the tenancy, such as re-renting the unit to increase the rent.

Furthermore, if the motive was simply to evict the tenant. I find it highly unlikely that the landlords would give the tenant more time to vacate the premises than required under the Act, as the tenancy could have ended early than the date specified in the Notice.

I find the Notice has been proven by the landlords and is valid and enforceable. Therefore, I dismiss the tenant's application to cancel the Notice. The tenancy will end on March 1, 2020 in accordance with the Act.

Since I have dismissed the tenant's application, I find that the landlords are entitled to an order of possession effective **March 1, 2020, at 1:00 P.M.** This order must be served on the tenant and may be filed in the Supreme Court.

Conclusion

The tenant's application to cancel the Notice is dismissed. The landlords are granted an order of possession.

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: November 29, 2019

Residential Tenancy Branch