Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regard 1012267 BC LTD
and [tenant name suppressed to protect privacy]
DECISION

Dispute Codes   CNL-4M, OLC

Introduction

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

- cancellation of the landlord's (the landlord's) Four Month Notice to End Tenancy for Demolition, Renovation, Repair, or conversion of a Rental Unit (the 4 Month Notice) issued by the landlord pursuant to section 49; and
- an order compelling the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62.

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 parties confirmed that they had exchanged their documentary evidence prior to this hearing.

Issue(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 an order compelling the landlord to comply with the Act, regulation or tenancy agreement?

Background and Evidence

The landlord gave the following testimony. The landlord testified that he made an application for renovation permits on October 31, 2019. The landlord testified that he paid the fee for the application on that day. The landlord testified that he served the tenant a Four Month Notice to End Tenancy for Demolition, Renovation, Repair, or conversion of a Rental Unit the following day on November 1, 2019. The landlord

testified that the home is in disrepair and that he has done all he can in obtaining the permits. The landlord testified that the delay for approval is not something that he can control as it is an internal issue at the City of Abbotsford. The landlord requests an order of possession.

The tenant gave the following testimony. The tenant testified that the landlord is premature in his application. The tenant testified that the landlord only made an application for the permit one day before serving him a notice to end tenancy. The tenant testified that he will comply with a notice if served properly and if all permits are in place as required. The tenant testified that the notice should be cancelled as the landlord has not carried out all the requirements for this particular notice.

Analysis

Although the tenant applied to cancel the 4 Month Notice, the burden of demonstrating that an end of tenancy is required rests with the landlord. Paragraph 49(6)(a) of the *Act* reads in part as follows:

> **49** *(6) A landlord may end a tenancy in respect of a rental unit if the landlord has all the necessary permits and approvals required by law, and intends in good faith, to do any of the following:...*
> > *(b) renovate or repair the rental unit in a manner that requires the rental unit to be vacant;*

Although the landlord feels he has done what is required, he has not yet obtained the permits to conduct the work as outlined on the Notice. The tenant provided documentation that the landlords application is still pending as of January 8, 2020.

Under these circumstances, I find that the landlord's 4 Month Notice was issued prematurely and without the necessary approvals and permits required by law in place. For these reasons, I allow the tenant's application to cancel the 4 Month Notice. The tenant has not provided sufficient evidence to show that the landlord must be compelled with a specific order to comply with the Act, regulation or tenancy agreement; accordingly, I dismiss that portion of his application.

Conclusion

I allow the tenant's application to cancel the 4 Month Notice. The 4 Month Notice is of no continuing force or effect and this tenancy continues until 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: January 24, 2020

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Residential Tenancy Branch