



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CANADIAN FEDERAL INTERNATIONAL TOURISM
LTD and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL-4M

Introduction

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

- cancellation of the corporate landlord's (the landlord's) 4 Month Notice to End Tenancy for Demolition, Renovations, Repair or Conversion of Rental Unit (the 4 Month Notice) pursuant to section 49.

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. Each party was represented by an advocate. The landlord did not submit any documentation for this hearing. The tenants submitted documentation to the Branch but not to the landlord, accordingly; that documentation was not considered.

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?

Background and Evidence

The landlord gave the following testimony. The landlord purchased the property in November 2019. The landlord wishes to convert the property "back to a regular hotel". The landlord issued 4 Month Notice to End Tenancy for Demolition, Renovations, Repair or Conversion of Rental Unit to the remaining tenants in the building on January 27, 2020 for the following reason:

Landlord's notice: landlord's use of property

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:...*

(f)convert the rental unit to a non-residential use.

The landlord attended at the local municipal bylaw office in late February or early March and was told they did not require permits to convert the property. The landlord requests an order of possession for all the listed units in this hearing.

The tenants advocate gave the following submissions. The advocate submits that the landlord has not obtained permits to convert the property nor have they provided any documentation that they are not required to have permits. The advocate submits that the building is over 100 years old and will need significant upgrades and renovations and will need to have permits to conduct the work. The advocate submits that the landlord has not provided any information or documentation to the tenants and has failed to provide sufficient evidence to be granted an order of possession for the subject units. The advocate submits that the landlord has issued notices on various dates in January and February and requests all notices be set aside.

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:...*

(f)convert the rental unit to a non-residential use.

The landlord gave testimony that they had attended the local municipality bylaw office and were told permits were not required. The landlords did not provide any documentation to support this testimony. In addition, the landlord did not provide a clear and concise business plan to show what type of changes were going to occur to the building, any work or scope of work, timelines and quotes. The landlord simply stated that they wish to convert the property to a “regular hotel”.

Under these circumstances, I find that the landlord's 4 Month Notice was issued prematurely and without the necessary approvals or permits required by law or any solidified business and work plans in place. For these reasons, I allow the tenant's application to cancel the 4 Month Notice.

As there are several different dates that notices were issued, and for absolute clarity; I hereby dismiss all 4 Month Notice to End Tenancy for Demolition, Renovations, Repair or Conversion of Rental Unit up to and including February 28, 2020 for the noted subject units.

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 these tenancies continue 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: May 11, 2020

Residential Tenancy Branch