



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, MNTC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants filed under the Residential Tenancy Act (the “Act”), to cancel Two Month Notice to End Tenancy for Landlord’s Use of Property (the “Notice”) issued on June 30, 2020.

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.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In these circumstances the tenant indicated several matters of dispute on the Application for Dispute Resolution, the most urgent of which is the application to set aside the Notice to End Tenancy. I find that not all the claims on this Application for Dispute Resolution are sufficiently related to be determined during these proceedings. I will, therefore, only consider the tenants request to set aside the Notice to End Tenancy. The balance of the tenants’ application is dismissed, with leave to re-apply.

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 issued be cancelled?

Background and Evidence

The tenancy began on August 1, 2019. Rent in the amount of \$1,000.00 was payable on the first of each month. The tenants paid a security deposit of \$500.00.

The parties agreed that the Notice was served on the tenants indicating that the tenants are required to vacate the rental unit on August 31, 2020.

The reason stated in the Notice was that:

- The rental unit will occupied by the landlord or the landlord's close family member (parent, spouse or child; or the parent or child of that individual's spouse)

The landlord testified that in 2019, they purchased the subject property as their dream home with the intent of occupying the premise sometime in the summer of the year 2020.

The landlord testified that they had discussion with the tenants to possibly extend their tenancy due to covid and the possible delay in the building of the workshop, which was in the process of being built for the co-landlord to enjoy their hobbies and move up their tools when complete.

The landlord testified that the workshop is back on schedule and is expected to be at lock up point by the end of the September 2020. The landlord stated that they need the subject property to occupy for their own use. Filed in evidence are letters from the builder.

The female tenant testified that they knew the landlords had indented to move to the property. The tenant stated that they thought that they could stay longer in the rental unit or move to the basement, which the landlords have always kept for their own use when in town. The tenant stated that the landlords have now revoked the offer to move-into the basement an they need more time to find alternate accommodations.

The female tenant confirmed that the foundation for the landlords' workshop has been completed.

The landlord responded that they are not agreeable to giving the tenants more time to vacate. The landlord stated that winter is coming, and they want to be able to move their belonging before it arrives. The landlord stated the tenants have had two months to find alternative housing and have made no effort to do so.

Analysis

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

How to end a tenancy is defined in Part 4 of the Act. Section 49(1) of the Act a landlord may end a tenancy by giving notice to end the tenancy.

I have considered all of the written and oral submissions submitted at this hearing, I find that the landlords have provided sufficient evidence to show that:

- The rental unit will occupied by the landlord or the landlord's close family member (parent, spouse or child; or the parent or child of that individual's spouse)

In this case, the tenants have always known that the intent of the landlords was that they were going to be moving to the property. This is also supported by the landlords building a workshop. The fact that this Notice was given earlier than what the tenants expected, does not change the intent of the Notice.

The tenants were not under a fixed term agreement and the landlords were entitled to end the tenancy based on giving the tenants two months notice to vacate, which was completed.

While the landlords may have had another area for the tenants to rent for a short-term period that is not part of the subject rental unit. No written tenancy agreement was ever signed, and I have no authority to order the parties enter in too such an agreement.

I find the Notice issued on June 30, 2020, has been proven by the landlords and is valid and enforceable.

Therefore, I dismiss the tenants' application to cancel the Notice. The tenancy will end on August 31, 2020 in accordance with the Act.

As the tenancy legally ended on the effective date of the Notice, I find the landlords are entitled to an order of possession, pursuant to section 55 of the Act, effective **August 31, 2020 at 1:00 pm**. This order must be served on the tenants and may be filed in the Supreme Court.

The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

Conclusion

The tenants' application to cancel the Notice, issued on June 30, 2020 is dismissed. The landlords are is 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: August 17, 2020

Residential Tenancy Branch