



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, CNL, FF

Introduction

This hearing was convened in response to applications by the landlord and the tenants.

The landlord's application is seeking orders as follows:

1. To obtain an order of possession; and
2. To recover the cost of filing the application.

The tenants' application is seeking orders as follows:

1. To cancel a Two Month Notice to End Tenancy for Landlord's Use of Property (the "Notice"), issued on September 29, 2020;
2. To recover the cost of filing the application.

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.

I have considered only the parties written or documentary evidence to which they pointed or directed me in the hearing, pursuant to Rule 7.4 of the Residential Tenancy Branch Rules of Procedure (the "Rules".)

Preliminary and procedural matter

In this case, the tenant raised the issue of the landlord's agent having authorization; however, the landlord has named the agent in their application. Further, this agent represented the landlord at the last hearing. The landlord's agent is a licensed property

manager, I am satisfied that the landlord name in the application, has appointed the agent to act as their agent.

Issues to be Decided

Should the Notice be cancelled?
Is the landlord entitled to an order of possession?

Background and Evidence

The tenancy began approximately seven years prior to the hearing. Rent in the amount of \$1,500.00 was payable on the first of each month.

The parties agreed that the Notice was served on the tenants indicating that the tenants are required to vacate the rental unit on November 30, 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's agent testified that the owner purchased the property on July 31, 2020. The agent stated that there was a previous hearing which cancelled a notice to end tenancy issued on July 27, 2020, only because they issued the previous notice prior to the owner taking possession on July 31, 2020.

The landlord's agent testified that the landlord purchased the property as they intend to occupy it. The agent stated that this delay has put the landlord in a difficult situation as they are currently living in a different city and had wanted to settle before any snow arrived.

The tenant testified that they do know who purchased the property. The tenant submit that this is the 5th notice they have received to end the tenancy. Filed in evidence is a large submission of document from the tenants. I note they predated the landlord taking possession of the property.

The landlord's agent argued that any of the prior notices that were issued, except for the one issued on July 27, 2020, were with the previous owner and they are not relevant.

The agent stated the only reason why the new purchaser was not successful with the previous notice was solely because they made an error when issuing the prior notice to end the tenancy.

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 landlord has provided sufficient evidence to show that:

- The rental unit will be 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 parties were at a previous hearing. The tenant's application to cancel a Two Month Notice to End Tenancy for Landlord's Use of Property, issued on July 27, 2020, was heard on September 29, 2020. The tenant's application was granted on the basis that the new owner had issued the notice to end tenancy before they took possession of the property, which they were not the landlord at the time.

At the previous hearing, the new owner of the property was identified; the Arbitrator refer to them by initials, ASN, in their decision. Therefore, I am satisfied that the tenants knew that the name of the owner at that time. Further, the landlord is also identified in the style of cause in this Decision.

While I accept there has been multiple notice to end the tenancy and the tenants have submitted a large volume of evidence for this hearing which would give me concern of an ulterior motive; however, this is not relevant to the new owner of the property as everything predates the date they took possession of the property, which was July 31, 2020. Only evidence after that date would be relevant, such as a current land title document.

I cannot hold a new owner responsible for things that occurred in the past as they were not a party. I find there is no evidence before that leads me to believe that the new

owner has any ulterior motive. Therefore, I find the Notice is valid and remains in full force and effect.

Therefore, I dismiss the tenants' application to cancel the Notice issued on September 29, 2020. I find the tenancy will end on November 30, 2020, in accordance with the Act. Further, the tenants have already received compensation for receiving the Notice as rent for November 2020, was not paid.

I find the landlord is entitled to an order of possession effective **November 30, 2020, at 1:00 P.M.** This order must be served on the tenants and may be filed in the Supreme Court.

Since the tenants were not successful with their application, I find the tenants are not entitled to recover the filing fee from the landlords.

Conclusion

The tenants' application to cancel the Notice, is dismissed. The landlord 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: November 20, 2020

Residential Tenancy Branch