



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL-4M

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on October 06, 2020 (the “Application”). The Tenant applied to dispute a Four Month Notice to End Tenancy for Demolition, Renovation, Repair or Conversion of Rental Unit dated September 24, 2020 (the “Notice”).

The Tenant appeared at the hearing. T.K. appeared at the hearing for the Landlord. I explained the hearing process to the parties who did not have questions when asked. The parties provided affirmed testimony.

T.K. provided the correct name of the Landlord which is reflected in the style of cause. T.K. confirmed she was appearing for the Landlord and there was no issue with T.K. being named on the Application as the landlord originally or service as a result of this.

The only evidence provided for the hearing was the Notice. T.K. confirmed receipt of the hearing package and did not raise an issue in relation to service of this.

The parties were given an opportunity to present relevant evidence and make relevant submissions. I have considered all oral testimony and the Notice. I will only refer to the evidence I find relevant in this decision.

Issues to be Decided

1. Should the Notice be cancelled?
2. If the Notice is not cancelled, should the Landlord be issued an Order of Possession?

Background and Evidence

The parties agreed on the following. There is a written tenancy agreement in this matter. The tenancy started in October of 2014 and was for a fixed term of 12 months. The tenancy then became a month-to-month tenancy. Rent is \$1,055.00 due on the first day of each month. The Tenant paid a \$497.50 security deposit.

The Notice states that it was issued because the Landlord is going to demolish the rental unit.

There was no issue that the Tenant received the Notice September 24, 2020.

T.K. testified as follows in relation to the grounds for the Notice. The Landlord has sold the rental unit to a developer as part of a land assembly. The purchaser intends to demolish the rental unit and build on the property. There are no permits currently. The owner wanted to give vacant possession to the purchaser. The purchaser takes possession January 31, 2021.

T.K. confirmed the Landlord does not intend to demolish the rental unit. T.K. agreed permits will be required to demolish the rental unit. T.K. confirmed permits to demolish the rental unit are not currently in place to her knowledge.

The Tenant testified that she spoke to someone at the City who said they are not issuing permits at this time given the pandemic and that it will be a long time before they are issuing permits.

Analysis

The Notice was issued pursuant to section 49(6) of the *Residential Tenancy Act* (the "Act") which states:

(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:

(a) demolish the rental unit...

Pursuant to section 49(8)(b) of the *Act*, the Tenant had 30 days to dispute the Notice. There is no issue the Tenant received the Notice September 24, 2020. The Tenant filed the Application October 06, 2020, within the 30-day time limit.

Pursuant to rule 6.6 of the Rules of Procedure, it is the Landlord who has the onus to prove the grounds for the Notice.

I am not satisfied the Landlord had grounds to issue the Notice for two reasons.

First, the Landlord does not intend to demolish the rental unit and therefore cannot issue a Notice pursuant to section 49(6)(a) of the *Act*. I acknowledge that the purchaser intends to demolish the rental unit; however, it is my understanding from T.K.'s testimony that the purchaser will not become the owner of the rental unit until the end of January. Therefore, when the Notice was issued, and at this point, the Landlord remains the landlord and it is the intention of the Landlord, not the purchaser, that is relevant.

Second, I am not satisfied the Landlord has all the necessary permits and approvals required by law to demolish the rental unit. T.K. acknowledged that permits will be required to demolish the rental unit. T.K. acknowledged there are no permits in place to demolish the rental unit. Therefore, the Landlord has failed to meet the requirement that the Landlord have "all the necessary permits and approvals required by law" set out in section 49(6) of the *Act*.

I find the Landlord did not have grounds to issue the Notice and therefore cancel the Notice. The tenancy will continue until ended in accordance with the *Act*.

Conclusion

The Landlord has failed to prove the grounds for the Notice. The Notice is cancelled. The tenancy will 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 *Act*.

Dated: December 16, 2020

Residential Tenancy Branch