



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FFT

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenants filed under the Residential Tenancy Act (the “Act”) to cancel a Two Month Notice to End Tenancy for the Landlord’s Use of the Property (the “Notice”) issued May 31, 2021, and to recover the filing fee for their application. The matter was set for a conference call.

Two of the Tenants and the Landlord attended the hearing and were each affirmed to be truthful in their testimony. The Landlords and Tenants were provided with the opportunity to present their evidence orally and in written and documentary form and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before me. Both parties were advised of section 6.11 of the Residential Tenancy Branches Rules of Procedure, prohibiting the recording of these proceedings.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Should the Notice issued May 31, 2021, be cancelled?
- If not, is the Landlord entitled to an order of possession pursuant to section 55 of the *Act*?
- Are the Tenants entitled to recover the cost of the filing fee?

Background and Evidence

While I have considered all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The parties agreed that the Notice was served on May 31, 2021, by posting it to the front door of the rental unit. The Notice recorded that the Tenants were required to vacate the rental unit as of August 1, 2021. The reason checked off by the Landlord within the Notice was as follows:

- the landlord or a close family member of the landlord intends in good faith to occupy the rental unit.

Both parties agreed that the Tenants moved out and returned possession of the rental to the Landlord on August 16, 2021.

Analysis

Based on the evidence before me, the testimony of the Landlord and the Tenants, and on a balance of probabilities, I find that the Tenants moved out in accordance with the Landlord's Notice on August 16, 2021.

I find that this tenancy has already ended in accordance with the *Act* and that there is no requirement for me to determine the validity of the Notice. Therefore, I dismiss the Tenants application to cancel the Notice.

Section 72 of the *Act* gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Tenants were not successful in their application, I decline to award the Tenants the recovery of their filing fee paid for this application.

Conclusion

The Tenants application is dismissed.

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: October 7, 2021

Residential Tenancy Branch