



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, PSF, FFT

Introduction

This hearing was convened by way of conference call concerning an amended application made by the tenants seeking an order cancelling a notice to end the tenancy for the landlord's use of the property; an order that the landlord provide services or facilities required by the tenancy agreement or the law; and to recover the filing fee from the landlord for the cost of the application.

One of the named tenants attended the hearing and represented the other tenant, who was added to the application in the amendment. The landlord also attended as well as another person who was introduced as the agent and Power of Attorney for a co-owner of the rental unit.

At the commencement of the hearing I advised the parties that the Rules of Procedure require that multiple applications contained in a single application must be related, and I found that the primary application seeks an order cancelling a notice to end the tenancy. The tenants' application seeking an order that the landlord provide services or facilities required by the tenancy agreement or the law is dismissed with leave to reapply.

The landlord gave affirmed testimony, and during the course of the hearing I made a finding that the tenant's evidence has been provided to the landlord.

Issue(s) to be Decided

The issue remaining to be decided is:

- Has the landlord established that the Two Month Notice to End Tenancy for Landlord's Use of Property was given in accordance with the *Residential Tenancy Act* and in good faith?

Background and Evidence

The landlord testified that this month-to-month tenancy began in 2011 and the tenants still reside in the rental unit. Rent in the amount of \$1,000.00 is payable on the 1st day of each month and there are no rental arrears. There is no written tenancy agreement; one of the tenants is the son of the Co-owner, and no security deposit or pet damage deposit was collected from the tenants. The rental unit half of a duplex.

The landlord further testified that the tenants were served with all pages of a Two Month Notice to End Tenancy for Landlord's Use of Property on June 22, 2021. The landlord's sister hand-delivered it to one of the tenants. A copy of pages 1 and 2 only of the Notice has been provided for this hearing by the tenants, and it is dated June 22, 2021 and contains an effective date of vacancy of August 31, 2021. The reason for issuing it states: "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)," but does not specify which close family member will occupy the unit.

The landlord's intention is to have nephew attend to do some repairs to the rental unit and then sell.

Analysis

Where a tenant disputes a notice to end a tenancy given by a landlord, the onus is on the landlord to establish that it was given in accordance with the *Residential Tenancy Act*, and where a Two Month Notice to End Tenancy for Landlord's Use of Property (the Notice) is given, the landlord must demonstrate good faith intent to use the rental unit for the purpose contained in the Notice.

In this case, the landlord has no intention of using the rental unit for occupation by a landlord or a close family member, and I find that the landlord has not demonstrated good faith intent. Therefore, I cancel the Notice and the tenancy continues.

Since the tenants have been successful with the application, the tenant is also entitled to recovery of the \$100.00 filing fee. I grant a monetary order in favour of the tenants as against the landlord in that amount and I order that the tenants be permitted to reduce rent for a future month by that amount or may otherwise recover it by filing it as a judgment in the Provincial Court of British Columbia, Small Claims division for enforcement.

Conclusion

For the reasons set out above, the tenants' application for an order that the landlord provide services or facilities required by the tenancy agreement or the law is hereby dismissed with leave to reapply.

The Two Month Notice to End Tenancy for Landlord's Use of Property dated June 22, 2021 is hereby cancelled and the tenancy continues.

I hereby grant a monetary order in favour of the tenants as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00 and I order that the tenants be permitted to reduce rent for a future month by that amount or may otherwise recover it.

This order is final and binding and may be enforced.

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 26, 2021

Residential Tenancy Branch