



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Binn Corp Investments Ltd and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL-4M-MT, LRE, FFT

Introduction

This hearing was scheduled to convene at 11:00 a.m. this date by way of conference call concerning an application made by the tenant seeking more time than prescribed to dispute a notice to end the tenancy; an order cancelling a notice to end the tenancy for demolition, renovation, repair or conversion of the rental unit; an order limiting or setting conditions on the landlord's right to enter the rental unit; and to recover the filing fee from the landlord for the cost of the application.

The tenant and a co-tenant attended the hearing and each gave affirmed testimony. However the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the landlord joined the call.

The tenant advised that the landlord was served with the Notice of Dispute Resolution Proceeding, evidentiary material and all other required documents by registered mail on September 18, 2021 and was permitted to upload proof of such service after the hearing had concluded. I now have a Canada Post cash register receipt bearing that date and a tracking number, and I am satisfied that the landlord has been served in accordance with the *Residential Tenancy Act*.

During the course of the hearing the co-tenant advised that the application for an order limiting or setting conditions on the landlord's right to enter the rental unit was made in error, and therefore, I dismiss that portion of the application.

Issue(s) to be Decided

- Has the Four Months' Notice to End Tenancy For Demolition, Renovation, Repair or Conversion of a Rental Unit been issued in accordance with the *Residential Tenancy Act*?

Background and Evidence

The tenant testified that this month-to-month tenancy began in 2016, and the current landlord purchased the rental unit in September, 2018. The tenant and co-tenant and children still reside in the rental unit. Rent in the amount of \$1,800.00 per month is payable on the 1st day of each month. At the outset of the tenancy the landlord at that time collected a security deposit from the tenant in the amount of \$600.00 which is still held in trust by the current landlord, and no pet damage deposit was collected. The rental unit is a single family house.

The tenant further testified that the parties had been exchanging emails, wherein the landlord told the tenant that the landlord had posted a Four Months' Notice to End Tenancy For Demolition, Renovation, Repair or Conversion of a Rental Unit to the door of the rental unit, but there wasn't one there. On July 26, 2021 the landlord sent a copy to the tenant by email. A copy has been provided for this hearing and it is dated July 26, 2021 and contains an effective date of vacancy of November 30, 2021. The reasons for issuing it state:

- Demolish the rental unit;
- Convert the rental unit for use by a caretaker, manager, or superintendent of the residential property.

It also states that the planned work is: Demolition and redevelopment of the property for a multi-unit apartment site.

The tenant testified that no permits accompanied the Notice that the landlord sent to the tenant by email. The central air conditioning unit broke, and the tenant asked the landlord to repair it but the landlord didn't want to because of the expense. The tenant contacted the Residential Tenancy Branch and notified the landlord that the landlord had to repair it, and the next day, the landlord sent the notice to end the tenancy.

The tenant contacted the City, and a copy of the response has been provided for this hearing, confirming that no permits have been issued and no applications for permits have been received.

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*.

A landlord may not end a tenancy for demolition until all required permits have been acquired. In this case, the landlord did not attend the hearing, has provided no evidence at all, and I am satisfied that the landlord has not applied for nor received any permits. Therefore, I cancel the Notice and the tenancy continues.

Since the tenant has 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 tenant as against the landlord in that amount, and I order that the tenant be permitted to reduce rent by that amount or may otherwise recover it by filing the order for enforcement in the Provincial Court of British Columbia, Small Claims division as a judgment.

Conclusion

For the reasons set out above, the Four Months' Notice to End Tenancy For Demolition, Renovation, Repair or Conversion of a Rental Unit dated July 26, 2021 is hereby cancelled and the tenancy continues.

I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00 and I order that the tenant be permitted to reduce rent 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: January 13, 2022

Residential Tenancy Branch