



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL

Introduction

This hearing was scheduled for 11:00 a.m. on this date to deal with a tenant's application to cancel a *Two Month Notice to End Tenancy for Landlord's Use of Property* ("2 Month Notice").

The tenant appeared for the hearing and was affirmed. The tenant was ordered to not make an unofficial recording of the proceeding.

There was no appearance on part of the landlord despite leaving the teleconference call open until 11:13 a.m. when the hearing concluded.

I explored service of the hearing materials upon the landlord. The tenant submitted a registered mail receipt, including tracking number, to demonstrate the proceeding package was sent to the landlord via registered mail on November 5, 2021. The tenant also submitted additional materials that were also served to the landlord via registered mail sent on December 11, 2021. A search of the registered mail tracking numbers showed that both of the registered mail packages were delivered. I was satisfied the tenant duly served the landlord with notification of this proceeding and other required materials and I continued to hear from the tenant without the landlord present.

Issue(s) to be Decided

Should the 2 Month notice be upheld or cancelled?

Background and Evidence

The landlord issued the subject 2 Month Notice on October 24, 2021. The tenant found the 2 Month Notice posted to his rental unit door on the same date and filed to dispute the 2 Month notice within the time limit for doing so.

The landlord indicated the following reason for ending the tenancy on the 2 Month Notice:

- 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 the space provide for indicating which family member will occupy the unit, the landlord indicated it would be occupied by "the landlord or the landlord's spouse".

The tenant confirmed that he seeks to continue the tenancy at this time and that he continues to seek cancellation of the 2 Month Notice. The tenant questioned the landlord's good faith intention to occupy the rental unit.

The landlord had not submitted any evidence prior to the hearing and did not appear at the hearing to present any evidence in support of ending the tenancy.

Analysis

Where a notice to end tenancy comes under dispute, the landlord bears the burden to prove the tenant was served with a valid notice to end tenancy and the tenancy should end for the reason(s) indicated on the notice [Rule 7.18 of the Rules of Procedure].

In the absence of any evidence from the landlord to demonstrate the tenancy should be ended for the reason(s) provided on the 2 Month Notice, I find the landlord did not meet her burden of proof and I grant the tenant's request for cancellation of the 2 Month Notice. As such, the tenancy continues at this time.

Conclusion

The tenant's application is granted and the 2 Month notice dated October 24, 2021 is cancelled with the effect the tenancy continues at this time.

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 04, 2022

Residential Tenancy Branch