



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding FAIRBORNE CMCC MARIE PALCE LTD. PARTNERSHIP
C/O and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL-4M, FFT
 OPL-4M, FFL

Introduction

This hearing was convened by way of conference call concerning applications made by the tenants and by the landlord. The tenants have applied for an order cancelling a Four Month Notice to End Tenancy for Demolition or Conversion of the Rental Unit to Another Use and to recover the filing fee from the landlord for the cost of the application. The landlord has applied for an Order of Possession regarding the Four Month Notice to End Tenancy for Demolition or Conversion of the Rental Unit to Another Use and to recover the filing fee from the tenants.

The landlord was represented at the hearing by an agent, who gave affirmed testimony. Both named tenants also attended and each gave affirmed testimony.

The parties agree that all evidence has been exchanged, all of which has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Has the landlord established that the Four Month Notice to End Tenancy for Demolition or Conversion of the Rental Unit to Another Use dated July 18, 2022 was issued in accordance with the *Residential Tenancy Act*, or should it be cancelled?

Background and Evidence

The landlord's agent testified that this fixed term tenancy began on March 1, 2019 and reverted to a month-to-month tenancy after September 30, 2019, and the tenants still reside in the rental unit. Rent in the amount of \$2,400.00 is payable on the 1st day of each month and there are no rental arrears. On February 12, 2019 the landlord

collected a security deposit from the tenants in the amount of \$1,200.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is a single family house, and a copy of the tenancy agreement has been provided as evidence for this hearing, which names one of the tenants.

The landlord's agent further testified that on July 18, 2022 the tenants were served with a Four Month Notice to End Tenancy for Demolition or Conversion of the Rental Unit to Another Use by registered mail and by posting a copy to the door of the rental unit on the same date. A copy of the Notice has been provided for this hearing and it is dated July 18, 2022 and contains an effective date of vacancy of January 31, 2023. The reason for issuing it states: Demolish the rental unit – I have obtained all permits and approvals required by law to do this work. A copy of a permit from the District has also been provided for this hearing. The District wanted the landlord to give more time for the tenants, and it was given in good faith. The landlord's agent is not sure if the permit expires but has been advised by the owners that the work will be commencing once the rental home is vacant. If the tenants move out earlier than the effective date contained in the Notice, the work will commence immediately.

The application for the permit was made on February 4, 2022, but the permit is not dated. A copy of the permit has also been provided for this hearing.

There are 10 other homes on the block, but this is the only one managed by the landlord's agent, and can only speak to this house. The owners have told the landlord's agent that all homes on the block will be demolished, and some at the rear have already been demolished, and this is a single family property. The project is not bound by policy, and the project pre-dates the current policy of the District. The developer has offered financial assistance, which includes a moving allowance, and 1 month compensation is required by the *Residential Tenancy Act*. Any other compensation due to the tenants is unknown to the landlord's agent. The owners have received the permit and requested the landlord's agent to provide the tenants with the Notice to end the tenancy. The landlord's agent told the tenants that he would be happy to help find another home with dog friendly properties. Some advertisements were provided to the tenants, but the landlord's agent does not know if they were single family dwellings.

The first tenant (EJ) testified that the other 10 homes have been sitting vacant since August 2021. People lived there and still nothing has been done, they are still vacant. The landlord doesn't have permits for the other homes, but only wants to demolish this one. The tenants have been there since 2011. The landlord can wait until they get all permits, and there's no place to move to. The landlord's relocation package shows that the

landlord should provide similar housing, and the tenant would gladly move. The tenants have a dog and have been having a hard time finding a place to move to.

The District policy states that the landlord is supposed to give 4 months free rent, but have not done that and is still taking money from the tenant's account. A copy of the District's policy has been provided for this hearing, which the tenant got online and is in communication with the District. They have advised that the landlord is obligated to relocation expenses and the landlord has to assist in finding alternative housing. The tenants don't like living in the rental unit, and the landlord needs to find the tenants a place, which is the best solution for everyone.

The second tenant (HE) testified that the terms of the end of the tenancy have not been met with relocation assistance from the landlords.

Also, these individuals emptied all properties without security which resulted in a person squatting. Now they got the demolition permit for 1 property, trying to push them out. If they could find a place that they could afford the tenants would move, but the landlord has not done that. Only partial homes were offered at 10% above the current rent, and none of the listings provided were single family homes.

When asked how the landlords could have obtained permit the tenant referred to the Notice to end the tenancy, which was accompanied by a letter from the landlord, however a copy has not been provided for this hearing. The tenant testified that the letter came directly from the landlord ownership of the property to the tenant about providing compensation to occupants. The landlord's agent indicated that he is not opposed to the letter being entered into evidence late, and I allowed the upload. It is a 2-page letter dated April 4, 2022 addressed to one of the tenants (HE).

When asked how the landlord could obtain the permit without proving that the District policy has been satisfied, the tenant had no response.

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*. Also, in the case of a Four Month Notice to End Tenancy for Demolition or Conversion of the Rental Unit to Another Use, the landlord must establish good faith intent to accomplish the purpose stated in the Notice.

The tenants have provided a copy of a letter dated April 4, 2022 from the landlord indicating that the letter is not a notice to end the tenancy but a good faith early effort to inform the tenant of upcoming changes to the tenancy, and once the demolition permit is received, the tenants will be served with a notice to end the tenancy which will include an extended notice period of 6 months. I have reviewed the Notice, and I find that it is in the approved form and contains information required by the *Residential Tenancy Act*. The Notice is dated July 18, 2022 and contains an effective date of vacancy of January 31, 2023, which is about 6 months and therefore, I find that the landlord has complied.

The letter of April 4, 2022 also states that the tenant is offered a relocation assistance package, including financial assistance of 3 months free rent, \$1,500.00 moving allowance and gifting of appliances within the rental unit to help reduce relocation costs, upon request. If the tenant accepts the relocation assistance package, the tenant releases the landlord from any and all rights, claims and/or entitlements to any further compensation and that the tenant agrees to keep the terms of the relocation assistance package confidential. A tenant is not required to comply or accept the relocation assistance package, or release the landlord from any claims. However, the *Residential Tenancy Act* requires a landlord to provide the tenant with compensation equivalent to 1 month's rent. The *Act* also states that:

(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;

The tenants have also provided a copy of the policy of the District, however my jurisdiction is not with the District, but with the *Residential Tenancy Act*. The landlord has the permit and approval, and I find that the landlord intends in good faith to demolish the rental unit. If the tenants disagree because the policy of the District has not been complied with, perhaps the tenants' application or dispute should be placed with the District, but the *Residential Tenancy Act* does not apply to such a dispute.

Therefore, the tenants' application is dismissed, and I grant an Order of Possession in favour of the landlord effective at 1:00 p.m. on January 31, 2023, the effective date contained in the Notice. The tenants must be served with the order which may be enforced by seeking a Writ of Possession from the Supreme Court of British Columbia.

Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee. I order that the landlord may keep that amount from the security deposit held in trust, or may serve the order to the tenant named in the

tenancy agreement (HE) and file it with the Provincial Court of British Columbia, Small Claims division for enforcement.

Conclusion

For the reasons set out above, the tenants' application is hereby dismissed in its entirety without leave to reapply.

I hereby grant an Order of Possession in favour of the landlord effective at 1:00 p.m. on January 31, 2023 and the tenancy will end at that time.

I further grant a monetary order in favour of the landlord as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00 and I order that the landlord may keep that amount from the security deposit held in trust 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: December 02, 2022

Residential Tenancy Branch