



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNL, FF

Introduction

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for landlord's use of property. The tenant also applied for the recovery of the filing fee.

The notice of hearing was served on the landlord by registered mail to the mailing address of the landlord, as indicated on the notice to end tenancy. The tenant provided a tracking number. Despite having been served the notice of hearing, the landlord did not attend the hearing. The tenant attended the hearing and was given full opportunity to present evidence and make submissions.

Issue to be Decided

Has the landlord validly issued the notice to end tenancy and does the landlord intend, in good faith, to occupy the rental unit?

Background and Evidence

The tenancy began on October 01, 2021. The monthly rent is \$1,300.00 payable on the first day of each month. On January 03, 2023, the landlord served the tenant with a two month notice to end tenancy for landlord's use of property. The reason the landlord gave the notice to the tenant is described as, the rental unit will be occupied by the landlord or the landlord's spouse.

The tenant disputed the notice in a timely manner and stated that the landlord or the landlord's spouse did not intend to move into the rental unit and filed evidence to support his testimony.

The tenant testified that the rental unit is a tear down and the landlord has applied for a demolition permit. A copy of the landlord's application for a building permit was filed into evidence.

Analysis

In order to support the notice to end tenancy, the landlord must prove that he served the notice in good faith. The landlord did not file any evidence to support the notice to end tenancy, nor did he attend the hearing. Without other evidence to support the claim, the landlord has not met the burden of proof and therefore I allow the tenant's application and set aside the landlord's notice to end tenancy.

Since the tenant is successful in his application, I award the tenant the recovery of the filing fee of \$100.00. The tenant may make a one-time deduction of \$100.00 from rent due on March 01, 2023.

Conclusion

The notice to end tenancy is set aside and the tenancy shall continue.

The tenant may make a one-time deduction of \$100.00 from rent due on March 01, 2023.

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: February 16, 2023

Residential Tenancy Branch