



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FFT, OPL, MNDCL, FFL

Introduction

This hearing was convened in response to applications by the landlord and the tenants.

The landlord's application is seeking orders as follows:

1. For an order of possession;
2. For monetary compensation; and
3. To recover the cost of filing the application.

The tenants' application is seeking orders as follows:

1. To cancel a Two Month Notice to End Tenancy For Landlord's Use of Property, (the "Notice") issued on September 16, 2022; and
2. To recover the cost of filing the application.

Both parties appeared.

Preliminary and Procedural Issues

In this case, the landlord is requesting an order of possession in their application, based on the Notice. However, I have reviewed the Notice and I find it does not comply with the Act.

The landlord cannot issue a Two Month Notice to End Tenancy for Landlord's Use of Property and alter the reason for ending the tenancy. Simply because the landlord does not want to renew the lease, which expired on December 31, 2022, is not grounds to end the tenancy under section 49 of the Act. I find the Notice does not comply with Section 52 of the Act, form and content as it has been altered for a reason not permitted

under the Act. Therefore, I find the Notice must be cancelled and the tenancy will continue.

I am also not prepared to hear the landlord's monetary claim. The landlord was claiming for rent that was not due at the time they filed their application and has been paid.

The landlord is also claiming monetary compensation for their own loss of quiet enjoyment because of constant emails of complaints received from the tenants regarding noise of the landlord and lower renters. This is not grounds for compensation as the landlord has other remedies under the Act. If the tenant is truly significantly interfering with the landlord's rights then the landlord is at liberty to issue a notice under section 47 of the Act, which the burden of proof is on the landlord.

Based on the above, I dismiss the landlord's application without leave to reapply. As the Notice was not valid, I grant the tenants' application to cancel the Notice, since the tenants application is granted I find the tenants are entitled to recover the cost of the filing fee from the landlord. The tenants are entitled to deduction \$100.00 from March 2023, in full satisfaction of this award.

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 03, 2023

Residential Tenancy Branch