



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding GOMES HOLDINGS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL FFT

Introduction

This dispute relates to a tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for the following:

1. Cancel the 2 Month Notice to End Tenancy for Landlord's Use of Property dated September 16, 2022 (2 Month Notice),
2. Recover \$100 filing fee.

The participants attended the teleconference hearing. The parties and witnesses called to testify were affirmed. Counsel for both parties were not affirmed as they are officers of the court. The parties and counsel were provided the opportunity to present their evidence orally and in written and documentary form and make submissions to me. A summary of the evidence is provided below and includes only that which is relevant to the findings detailed below.

All services issues were addressed, and the hearing began on December 16, 2022. After 73 minutes, the hearing was adjourned. On April 25, 2023, the hearing continued and after an additional 54 minutes the hearing was concluded. The hearing lasted a total of 127 minutes.

Procedural Matters

An Interim Decision dated December 16, 2022 was issued which should be read in conjunction with this decision.

The parties confirmed their email addresses and that the decision would be sent by email to both parties.

Issues to be Decided

- Should the 2 Month Notice be cancelled?
- If yes, should the tenant recover the cost of the filing fee?
- If no, should the landlord be granted an order of possession?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. The tenancy began on July 16, 1986. The parties agreed that monthly rent was currently \$1,054.64.

The tenant was served on September 16, 2022 with the 2 Month Notice and the tenant filed their application to dispute the 2 Month Notice on October 1, 2022, which is within the 15-day timeline provided under the Act. The effective vacancy date listed on the 2 Month Notice was November 30, 2022, which has passed.

The reason listed on the 2 Month Notice states:

The landlord confirmed that the owner of the building is holding company, GHL. Submitted in evidence was a BC Registry Services search records confirming that GHL, the corporate landlord was owned by both AG and HG as of October 31, 2022. HG is listed as secretary and AG is listed as president (Registry Records).

Preliminary Matter

Given that a family corporate entity has issued the 2 Month Notice and the reason selected was not "The landlord is a family corporation and a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the rental unit", I will first address this matter before I address any additional submissions, testimony or other evidence.

As indicated in my Interim Decision, the corporate landlord is the landlord before me and is the landlord who issued the 2 Month Notice. The 2 Month Notice states the following reason:

Reason for this Two Month's Notice to End Tenancy (check the box that applies)

☒ 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).

Please indicate which close family member will occupy the unit.

☐ The landlord or the landlord's spouse

☒ The child of the landlord or landlord's spouse

☐ The father or mother of the landlord or landlord's spouse

☐ The landlord or the landlord's spouse who owns shares in the corporation, or a close family member who owns shares in the corporation, or a close family member who owns shares in the corporation

I will determine whether the correct reason was selected on the 2 Month Notice below.

Analysis

Based on the above and on a balance of probabilities, I find as follows.

I find the landlord is a family corporation as supported by the Registry Records and as a result, the landlord has chosen a reason on the 2 Month Notice that is not valid. The landlord may wish to issue a new 2 Month Notice and select the correct reason that relates to a family corporation; however, **I cancel** the 2 Month Notice due to the incorrect reason being completed on the 2 Month Notice.

This matter relates to a 36-year tenancy. The tenant is protected by the Act to be served with the correct form if the landlord intends to rely on a 2 Month Notice to end the tenancy.

I find there is no need to include all of the other submissions, witness testimony or documentary as none change the fact the 2 Month Notice fails based on the incorrect reason being selected by the corporate landlord.

The 2 Month Notice dated September 16, 2022 is of no force or effect as a result.

Pursuant to section 62(3) of the Act, **I ORDER** the tenancy to continue until ended in accordance with the Act.

As the tenant's application had merit, I find that the tenant is entitled to monetary compensation pursuant to section 72 of the Act, in the amount of **\$100** for the filing fee.

I authorize the tenant to a one-time rent reduction in the amount of \$100 from a future month of rent, in full satisfaction of the tenant's recovery of the cost of the filing fee.

Conclusion

The 2 Month Notice issued by the landlord is cancelled as the incorrect reason was selected by the corporate landlord.

The tenancy has been ordered to continue until ended in accordance with the Act.

The tenant may deduct \$100 from a future month of rent in full satisfaction of the filing fee as noted above.

This decision will be emailed to both parties.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: May 19, 2023

Residential Tenancy Branch