



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNETC, FFT

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking monetary compensation for the landlord's failure to comply with the *Residential Tenancy Act* or used the rental unit for the purpose contained in a Four Month Notice to End Tenancy For Demolition or Conversion of a Rental Unit, and to recover the filing fee from the landlord for the cost of the application.

The tenant and the landlord attended the hearing and each gave affirmed testimony. The parties were given the opportunity to question each other and to give submissions.

The tenant has not served the landlord with any of the tenant's evidentiary material, however the landlord has provided all evidence to the tenant. Any evidence that a party wishes to rely on must be provided to the other party even if they already have a copy, because it is important for all parties to know what is before me. Since the tenant has not provided any to the landlord, I decline to consider it. All evidence of the landlord has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Has the landlord established that the landlord has acted in good faith and accomplished the purpose for ending the tenancy as contained in a Four Months Notice to End Tenancy For Demolition or Conversion of a Rental Unit (the Notice) within a reasonable time after the effective date of the Notice?

Background and Evidence

The landlord testified that the landlord purchased the rental property in May, 2022 and the tenant was already living in the rental unit. The landlord was planning to demolish it, so it remained as a month-to-month tenancy. The tenant moved out on May 31, 2023.

Rent in the amount of \$1,250.00 was payable each month, and there are no rental arrears. The landlord also received a security deposit in the amount of \$625.00 as well as a pet damage deposit in the amount of \$625.00, both of which have been returned to the tenant. The rental unit is a suite within a 4-plex, and the landlord did not reside on the property during the tenancy.

The landlord further testified that at the end of January, 2023 the landlord served the tenant with a Four Months Notice to End Tenancy For Demolition or Conversion of a Rental Unit by registered mail. A copy has been provided for this hearing, and it is dated January 15, 2023 and contains an effective date of vacancy of May 31, 2023. The reason for issuing it states: I am ending your tenancy because I am going to Demolish the rental unit. The planned work is "Demolition of Existing Building Construction of new complex." Details of work states: "dp-22-06 new 12 unit townhouse." The tenant also received the last month of rent free.

The landlord has provided a copy of a City Demolition Permit for another address, and the landlord testified that it's all one building, and the entire property will be demolished. The Demolition Permit is not dated, and the landlord testified that it was just received 3 weeks ago, the day it was uploaded to the Residential Tenancy Branch system.

Firstly, a development permit was issued, then the landlord decided to give the Four Month's Notice and thought the landlord would receive the demolition permit in that time, but that didn't happen. The landlord's intention was to demolish and did not re-rent the rental unit. Numerous issues, such as the bank, the City, money shortage, the interest rate and the bank started to get stricter, prevented it. It took that long, and the rental unit is still empty. The landlord didn't want to kick the tenants out, they were good to the landlord and paid the rent. However the landlord got stuck with the bank and the City. The landlord has also provided a copy of a BC Hydro bill to prove that hydro hasn't been used. All 4 units are empty, have not been re-rented, and there is no power in there.

The tenant testified that it's not a 4-plex but a duplex with upper and lower units on each side, so there are 4 suites in total.

The landlord is supposed to have all permits in place before he kicks the tenants out, but he didn't. It's been almost a year and no work has been started. If the landlord didn't have the permits or the money, he shouldn't have evicted the tenants.

SUBMISSIONS OF THE LANDLORD:

The tenant didn't dispute the Notice to end the tenancy. He should have said something then and the landlord would have thought about it. Demolition will start

within 1 month to 6 weeks. The landlord didn't take advantage of the tenants; the rental unit is still empty.

SUBMISSIONS OF THE TENANT:

It's not the tenant's responsibility to ensure the landlord complies with the law, or that the landlord's paperwork is in order before issuing a notice ending the tenancy.

Analysis

The *Residential Tenancy Act* states:

49 (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;
- (b) [Repealed 2021-1-13.]
- (c) convert the residential property to strata lots under the *Strata Property Act*;
- (d) convert the residential property into a not for profit housing cooperative under the *Cooperative Association Act*;
- (e) convert the rental unit for use by a caretaker, manager or superintendent of the residential property;
- (f) convert the rental unit to a non-residential use.

In this case, the landlord intended to demolish the rental unit, and gave the proper 4 months notice to end the tenancy, but did not have all necessary permits and approvals required by law.

The *Act* also states:

Tenant's compensation: section 49 notice

51 (1) A tenant who receives a notice to end a tenancy under section 49 [*landlord's use of property*] is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement.

(1.1) A tenant referred to in subsection (1) may withhold the amount authorized from the last month's rent and, for the purposes of section 50 (2), that amount is deemed to have been paid to the landlord.

I find that compensation of 1 month's rent was provided to the tenant by not paying rent for the last month of the tenancy. However, the *Act* also states:

(2) Subject to subsection (3), the landlord or, if applicable, the purchaser who asked the landlord to give the notice must pay the tenant, in addition to the amount payable under subsection (1), an amount that is the equivalent of 12 times the monthly rent payable under the tenancy agreement unless the landlord or purchaser, as applicable, establishes that both of the following conditions are met:

(a) the stated purpose for ending the tenancy was accomplished within a reasonable period after the effective date of the notice;

(b) the rental unit, except in respect of the purpose specified in section 49 (6) (a), has been used for that stated purpose for at least 6 months' duration, beginning within a reasonable period after the effective date of the notice.

Paragraph (b) does not apply to this case, because the reason for ending the tenancy was to demolish, not to reside in for at least 6 months.

(3) The director may excuse the landlord or, if applicable, the purchaser who asked the landlord to give the notice from paying the tenant the amount required under subsection (2) if, in the director's opinion, extenuating circumstances prevented the landlord or the purchaser, as applicable, from

(a) accomplishing, within a reasonable period after the effective date of the notice, the stated purpose for ending the tenancy, and

(b) using the rental unit, except in respect of the purpose specified in section 49 (6) (a), for that stated purpose for at least 6 months' duration, beginning within a reasonable period after the effective date of the notice.

The only extenuating circumstance is the landlord's failure to understand the law, that such a Notice to end a tenancy cannot be issued until the landlord has all necessary permits and approvals. I accept that there were delays that may have been beyond the

landlord's control, but the landlord ought not to have ended the tenancy until those delays were dealt with and the Demolition Permit was received.

I am not satisfied that the landlord has established extenuating circumstances prevented the landlord from accomplishing the stated purpose. I find that the effective date of vacancy contained in the Notice is May 31, 2023 and the tenant moved out that day; and that is the day the tenancy ended. I also find that the landlord received the Demolition Permit on February 28, 2024, the day it was uploaded to the Residential Tenancy Branch system, according to the landlord's testimony. I find that to be an unreasonable amount of time, and I find that the tenant is entitled to compensation equivalent of 12 times the monthly rent of \$1,250.00, or \$15,000.00.

Since the tenant has been successful with the application the tenant is also entitled to recover the \$100.00 filing fee from the landlord.

I grant a monetary order in favour of the tenant as against the landlord in the amount of \$15,100.00. The landlord must be served with the order, which may be filed in the Provincial Court of British Columbia, Small Claims division and enforced as an order of that Court.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$15,100.00.

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: March 13, 2024

Residential Tenancy Branch