



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL-4M, OLC, FFT

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. The Tenants' applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the "Act").

Both parties attended the hearing and provided testimony. Both parties confirmed receipt of each other's documents, including the Notice of Dispute Resolution Proceeding. I find all documents and evidence are sufficiently served.

Both parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The Tenants applied for multiple remedies under the *Residential Tenancy Act* (the "Act"), some of which were not sufficiently related to one another.

Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After looking at the list of issues before me at the start of the hearing, I determined that the most pressing and related issues before me deal with whether or not the tenancy is ending. As a result, I exercised my discretion to dismiss, with leave to reapply, all of the grounds on the Tenants' application with the exception of the following ground:

- to cancel a 4 Month Notice to End Tenancy (the “Notice”).

Issues(s) to be Decided

- Is the Tenant entitled to have the Landlord’s Notice cancelled?
 - If not, is the Landlord entitled to an Order of Possession?

Background and Evidence

The Tenant acknowledged receiving the Notice on March 28, 2024. The Landlord issued the Notice for the following reason:

The rental unit will be demolished

In the hearing, the Landlord was asked to explain why the Notice was issued, and he stated that he is planning on demolishing the house, and building a new one for he and his family to live in. The Landlord pointed out that he has already hired engineers, architects, planner, and contractors to get the permit approved, and he has already spent nearly \$75,000 on the project so far. The Landlord provided proof of payment showing he has paid nearly \$32,000.00 to the city for permit fees. The Landlord also provided copies of the receipts and the permits, which were issued on March 21, 2024. He also provided a letter from his construction manager to corroborate the project.

The Tenants provided many statements regarding the Landlord’s history in trying to evict the them by way of several different Notices to End Tenancy over the last couple years. The Tenants pointed to issues relating to unpaid rent, rent increases, disputes over their enjoyment of the property, and also other 2 Month Notices to End tenancy for Landlord’s Use. The Tenants pointed out that they won both other hearings on the other Notices, and they feel this is another attempt to end the tenancy. The Tenants assert the Landlord is not going to demolish, and simply wants to end their tenancy to re-rent the unit for more money.

Analysis

In the matter before me, once the Tenant alleges bad faith, the Landlord has the onus to prove that the reason in the Notice is valid and that he intends in good faith to perform the stated purpose on the Notice.

I find the tenant was duly served with the Notice on March 28, 2024. The Notice was served under the following ground:

- The rental unit will be demolished

I acknowledge that there has been degradation in the relationship between the Landlord and the Tenant. It appears this started over the past couple of years, and I also note there have been multiple other notices to end tenancy, which ultimately were set aside after a hearing was held. The Tenant is alleging that the Landlord has issued this 4-Month Notice in bad faith, and not because they actually want to demolish the house.

Once the Landlord's good faith intentions are called into question, the burden of proof rests with the Landlord to demonstrate that he, in good faith intends to accomplish the stated purpose on the Notice. I note that Policy Guideline #2A states the following:

B. GOOD FAITH

When the issue of an ulterior motive for an eviction notice is raised, the onus is on the landlord to establish they are acting in good faith: Baumann v. Aarti Investments Ltd., 2018 BCSC 636.

Good faith means a landlord is acting honestly, and they intend to do what they say they are going to do. It means they do not intend to defraud or deceive the tenant, they do not have an ulterior motive for ending the tenancy, and they are not trying to avoid obligations under the RTA and MHPTA or the tenancy agreement.

I have considered the testimony and the evidence on this matter, in totality, and I accept that there has been conflict between the parties, particularly over the past year. I have considered that the Tenants feel this is a continuation of bad faith attempts to evict them, and not because of genuine intention to demolish the rental unit. In contrast to this, the Landlord stated that their plan has always been to demolish, and since the permits finally came through, they can now proceed with it. I note the Landlord has provided all necessary documentation from the City to show the permits are in place,

and also provided letters and receipts showing this project is well underway in terms of planning and hiring professional trades. I find the Landlord has provided a compelling version of events, and his statements are supported by the necessary paperwork (permits, receipts and letters) to demonstrate that he is in fact going to demolish the rental unit. Despite the conflict in the past, I find the Landlord has proven his good faith intentions with a preponderance of evidence to support the project and the grounds selected.

The Tenant's application to cancel the Notice is dismissed. The tenancy is ending.

Under section 55 of the *Act*, when a tenant's application to cancel a Notice to end tenancy is dismissed and I am satisfied that the Notice to end tenancy complies with the requirements under section 52 regarding form and content, I must grant the Landlord an order of possession.

I find that the 4-month Notice complies with the requirements of form and content and the Landlord is entitled to an order of possession.

Conclusion

The Tenant's application to cancel the Notice to End Tenancy dated March 28, 2024, is dismissed.

The Landlord is granted an order of possession effective August 1, 2024, at 1pm, after service on the Tenant. If the Tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

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: June 17, 2024

Residential Tenancy Branch