



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNL- MT, PSF, OLC

Introduction

This hearing dealt with the tenant's two applications pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the Two Month Notice to End Tenancy for Landlord's Use of Property (the "Two Month Notice"), pursuant to section 49;
- an order to compel the Landlord to comply with the Act, regulation, or tenancy agreement pursuant to section 62;
- an Order that the Landlord provide services and facilities agreed to and as required by law pursuant to section 65;
- The tenants more time to file an application pursuant to section 66.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and arguments. The landlord acknowledged receipt of evidence submitted by the tenant, the landlord did not submit any documentation for this hearing. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, **I refer to only the relevant facts and issues in this decision.**

Preliminary Issue

The tenants applied to be given more time to file their application, however the tenants were prepared to proceed on this date without the need for an extension. The hearing proceeded and completed on that basis.

Issue(s) to be Decided

1. Are the tenants entitled to cancellation of the Two Month Notices to End Tenancy for Landlord's Use of Property?

2. Should an order be issued to compel the landlord to comply with the Act, regulation, or tenancy agreement?
3. Should an order be given to the landlord to provide services and facilities as agreed upon and required by law?

Background and Evidence

The landlord gave the following testimony. The tenancy began about 4 years ago with the rent of \$500.00 due on the first of each month for the bunkhouse for JS and \$1000.00 a month due on the first of each month for the main house for DS. The landlord issued Two Month Notices to End Tenancy for Landlords Use of Property on May 27, 2024 so that he and his family of eight could move in.

JS testified that the landlord gave him is word that this was going to be a long term tenancy and that he would make repairs to the property for him. JS testified that he finds it hard to believe he would move his family of eight to such a remote place which is at least an hour away from the kids school. JS testified that there are other structures on the acreage property that are far more suitable for his family. JS testified that he and DS's units are too small to accommodate a large family.

Analysis

Two Month Notice

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the tenant's claim and my findings around each are set out below.

When a landlord issues a notice to end tenancy, they must provide sufficient proof to support the issuance of the notice. The tenant has called into question whether the landlord has issued the notice in good faith. Residential Tenancy Policy Guideline 2 addresses the "good faith requirement" as follows.

Good faith is an abstract and intangible quality that encompasses an honest intention, the absence of malice and no ulterior motive to defraud or seek an unconscionable advantage.

A claim of good faith requires honesty of intention with no ulterior motive. The landlord must honestly intend to use the rental unit for the purposes stated on the Notice to End the Tenancy. This might be documented through:

a Notice to End Tenancy at another rental unit;

an agreement for sale and the purchaser's written request for the seller to issue a Notice to End Tenancy; or

a local government document allowing a change to the rental unit(e.g., building permit) and a contract for the work.

If evidence shows that, in addition to using the rental unit for the purpose shown on the Notice to End Tenancy, the landlord had another purpose or motive, then that evidence raises a question as to whether the landlord had a dishonest purpose. When that question has been raised, the Residential Tenancy Branch may consider motive when determining whether to uphold a Notice to End Tenancy.

If the good faith intent of the landlord is called into question, the burden is on the landlord to establish that they truly intend to do what they said on the Notice to End Tenancy. The landlord must also establish that they do not have another purpose that negates the honesty of intent or demonstrate they do not have an ulterior motive for ending the tenancy.

The landlord testified that his wife would be attending school, hence the need to move into this unit as they could no longer afford the lease of their other property. However, the landlord later stated that the two units are condemned and would require extensive renovation before he could move in. Furthermore, the landlord failed to explain how the family was to reside in two separate structures. I find too many inconsistencies in the landlords testimony that he could not explain nor provide any documentation to support.

Based on insufficient and at times contradictory testimony of the landlord, I hereby cancel both notices for each tenant, they are of no effect or force.

Order to Comply and Provide Services and Facilities

JS testified that he checked off these boxes on his application in the hope that the landlord would comply with the oral agreement of giving him a long-term tenancy in a

proper home. I dismiss this portion of both applications as the tenants have failed to provide sufficient evidence to support their claim.

Conclusion

Both Two Month Notices to End Tenancy dated May 27, 2024, are cancelled, they are of no effect or force. The tenancy continues for each tenant. The remainder of both tenants' applications are dismissed without leave to reapply.

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: August 22, 2024

Residential Tenancy Branch