



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding HUGH & MCKINNON REALTY
LTD. and [Tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL – 4M

Introduction

This hearing dealt with two Tenant Applications for Dispute Resolution that were joined together. In making the applications, the Tenants indicate they are seeking to cancel the Four Month Notices to End Tenancy for Demolition or Conversion of a Rental Unit that were served upon them.

The Tenants appeared at the hearing and were assisted by a third party. Agents appeared for the Landlord.

Preliminary and Procedural Matters

I confirmed the Tenants sent their proceeding packages to the Landlord's agents by registered mail on August 8, 2024 and the Landlord received these packages.

The Landlord also received a document from the Tenants describing all of the Four Month Notices issued to the Tenants after the original notices of July 31, 2024. The Tenants confirmed they were also seeking to dispute all of the Four Month Notices received by them from the Landlord. The Landlord's agents confirmed they were of the understanding that all of the Four Month Notices would be addressed during this proceeding. Accordingly, I amended the applications to include the Four Month Notices that were received after the Tenants had filed their original applications.

This dispute pertains to two separate residential properties and tenancy agreements. Tenants S.B. and C.G. are co-tenants for one of the subject properties and Tenant W.R. is the Tenant for the other property. Although the Tenants and the properties are different, the Landlord is the same and the properties are part of a block of land owned by the same Landlord that is slated for redevelopment. The files were therefore permitted to be joined.

All of the properties in the subject block of landlord are owned by the City and the subject tenancies are managed by a property management company on behalf of the City. The respondent named in this proceeding is the property management company that the City has engaged to manage the rental units. I confirmed with the respondent that they have the City's authority to issue notices to end tenancy to tenants on behalf of the City and that they issued Four Month Notices to these Tenants upon instruction from the City.

During the hearing, I noted that I had a copy of the Four Month Notice issued to Tenants S.B. and C.G. on July 31, 2024 but the Tenant had altered it to correct his last name and postal code and I did not have an unaltered copy. I authorized and ordered the Landlord to provide me with the unaltered copy of this notice by September 27, 2024. I did not receive an unaltered version from the Landlord and I have relied upon the notice provided by the Tenants.

I also noted that I did not have a copy of the August 14, 2024 Four Month Notice issued to Tenant W.R. The Tenant's assistant responded that they had delivered a copy to the Residential Tenancy Branch, which I accept may be accurate; however, it is not in the file before me. The Landlord had not provided a copy of this notice either. I authorized and ordered the parties to provide me with a copy of the notice issued to W.R. on August 14, 2024 by September 27, 2024. I received a copy of the August 14, 2024 notice from both parties and they are the same.

issue(s) to be Decided

Should the Four Month Notices be upheld or cancelled?

If upheld, is the Landlord entitled to an Order of Possession? If so, when should the Order of Possession take effect?

Background and Evidence

The two rental units that are the subject of this proceeding are two of 13 properties located in a city block that have been purchased by the City and the properties, collectively, are slated for redevelopment.

On June 17, 2024 the City issued a demolition permit to itself for the demolition of the structures on the subject properties.

On June 25, 2024 the property management company issued Four Month Notices with an effective date of October 31, 2024, to the Tenants. The notices were sent to the Tenants by registered mail. The Tenants filed to dispute these notices on July 23, 2024. In filing their Applications for Dispute Resolution, the basis for disputing the notices was that the notices were not signed.

Although the property manager states he signed the Four Month Notice they issued to S.B. and C.G. on June 25, 2024, they issued another Month Notice to S.B. and C.G. on July 31, 2024 to avoid any issue with the identity of the Landlord being different in two places on the June 25, 2024 notice. The July 31, 2024 notice was given to C.G. in person and has a stated effective date of December 1, 2024.

On August 14, 2024 the property manager issued a new Four Month Notice to W.R. with an effective date of December 31, 2024 because the Four Month Notice they issued to W.R. on June 25, 2024 did not contain a signature for the Landlord or Landlord's agent.

Tenant's position

The Tenants submit that they thought they would have more time to vacate the property based on what the City had explained to them previously. The Tenants state they are elderly and suffer from health conditions and have occupied their respective rental units for many years, over 20 years for S.B. and C.G. and approximately 30 years for W.R. The Tenants seek to continue the tenancy until July 2025 or August 2025 so that:

- The tenants have sufficient time to dispose of or pack all of their possessions considering the amount of possessions they have acquired and the Tenants' health conditions
- The grand-daughter of S.B. and C.R., who was adopted by S.B. and C.R. and resides in the rental unit, can finish the school year at the same school
- The home W.R. has acquired will be ready for his occupancy and W.R. can avoid moving twice

Landlord's response

The property manager stated that they have had discussions with the City concerning an extension of time for the Tenants to vacate and the City is willing to give the Tenants up until December 31, 2024, pointing out that since the first Four Month Notices were issued, the Tenants have had six months of notice to vacate.

As for the error with S.B.'s last name, the property manager pointed out that C.R. is named correctly on the Four Month Notice and it is sufficient to name just one tenant in a co-tenancy.

Analysis

Where a notice to end tenancy comes under dispute, the Landlord bears the burden to prove the Tenant was served with a valid notice to end tenancy and the tenancy should end for the reason(s) indicated on the notice.

June 25, 2024 notices to end tenancy

The property manager expressly stated it withdrew or rescinded the June 25, 2024 notice issued to W.R.

The property manager also stated that it issued new notices to rectify any inconsistencies in naming of the Landlord on the June 25, 2024 notices.

Based on the property manager's express statement and actions that I find consistent with waiver, I grant the Tenants' request for cancellation of the June 25, 2024 notices.

July 31, 2024 Notice issued to S.B. and C.G.

August 14, 2024 Notice issued to W.R.

In order for a landlord to end a tenancy, section 52 of the Act requires that the Landlord MUST serve the Tenant with a notice to end tenancy in the approved form.

The Four Month Notices issued to the Tenants on July 31, 2024 and August 31, 2024 respectively are on an old, outdated version of a Month Notice that has not been the approved form since before July 1, 2021.

Since the Landlord has not served the Tenants with a notice to end tenancy in the approved form, I grant the Tenant's request for cancellation of the notices issued to them on July 31, 2024 and August 31, 2024 respectively and I do not issue an Order of Possession to the Landlord.

The tenancies continue at this time, until such time they are legally ended.

The Landlord may issue new notices to the tenant, in the approved form, which will also be an opportunity for the Landlord to correct S.B.'s name and ensure other information on the notices is correct.

Conclusion

The Four Month Notices dated June 25, 2024 are cancelled.

The Four Month Notices dated July 31, 2024 and August 14, 2024 are not on the approved form and are cancelled. The tenancies continue at this time, until such time the tenancies are legally ended.

The Landlord is at liberty to issue new Four Month Notices to the Tenants so that they are in the approved form.

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: October 03, 2024

Residential Tenancy Branch