



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION

Dispute Codes: CNL and CNR

Introduction

This application was brought by the tenant seeking to have set aside two Notices to End Tenancy, a 60-day notice for landlord use served on January 31, 2009, and a 10-day notice for unpaid utilities served on February 9, 2009.

Issues to be decided

This application requires a decision on whether the Notices to End are lawful and valid and should be upheld or set aside accordingly. As a decision on the first notice would render the second notice moot, it will be addressed first, and the second notice will be considered only if the first is set aside.

Background and Evidence

This tenancy began June 8, 2008. Rent is \$1,200 per month and there is no security deposit.

During the hearing, the landlords gave evidence that the tenant had been served with the Notice to End Tenancy for landlord use on January 31, 2009 as they wished to renovate the home. They said the reason for the timing of the notice was that they were employed on a ski hill in the winter months and did construction at other times, and April was a logical time to begin the work.

They said the house in question had been the landlord's family home. They had built a new house for his mother on the adjoining lot and she had moved into it, leaving the subject house vacant for temporary rental and eventual renovation. They said the home was 50 years old and in need of a major renovation, including removal of asbestos.

Analysis

Sections 49(6)(b) of the *Act* permits a landlord to end a tenancy with two months notice if the landlord intends in good faith to renovate the property in a manner that requires it to be vacant.

Section 49(8) and (9) of the *Act* and the second page of the notice state that a tenant who receives a notice to end tenancy for landlord use may file to dispute it within 15 days of receipt. If they do not do so, they are presumed to have accepted the tenancy ends on the date stated on the notice.

In this instance, the tenant did not make application until February 11, 2009, approximately six weeks after receipt of the notice for landlord use.

For that reason, and having found the notice to be valid and lawful, I cannot set it aside. On hearing that determination, the landlords requested and I find they are entitled to an Order of Possession to take effect March 31, 2009.

The parties attempted to negotiate a later possession date but were unable to come to agreement on the unpaid utilities, a matter that could not be addressed on the tenant's application to set the notices aside

Conclusion

The landlords' copy of this decision is accompanied by Order of Possession effective at 1 p.m. on March 31, 2009 for service on the tenant. The order is enforceable through the Supreme Court of British Columbia.

March 26, 2009

Dispute Resolution Officer