

Decision

Dispute Codes: CNL, FF

Introduction

This hearing was convened in response to an application by the tenants for cancellation of a notice to end tenancy for landlord's use of property / and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony. During the hearing the landlord's agents confirmed that the landlord seeks an order of possession.

Issues to be decided

- Whether either party is entitled to any of the above under the Act

Background and Evidence

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the month-to-month tenancy began on September 1, 2009. A security deposit was collected in the amount of \$350.00, and monthly rent is currently \$720.00.

The landlord issued a 2 month notice to end tenancy for landlord's use of property dated June 27, 2011. A copy of the notice was submitted into evidence. Reasons shown on the notice for its issuance are as follows:

The landlord has all the necessary permits and approvals required by law to demolish the rental unit or repair the rental unit in a manner that requires the rental unit to be vacant

The landlord intends to convert the rental unit for use by a caretaker, manager or superintendent of the residential property

Subsequently, the tenants filed an application to dispute the notice on July 5, 2011.

The landlord's agents testified that the landlord's intention is to have the church's new pastor reside in the unit. Evidence submitted by the landlord includes an excerpt from the church's constitution and bylaws. Bylaw # 2.1.2 speaks to the duties of the pastor. The landlord takes the position that it is in keeping with the pastor's job description "for him or her to also serve as the caretaker, manager or superintendent of the residential unit." The landlord's agents stated that while the most recent pastor chose to live elsewhere, the unit has previously functioned as a "manse" (residence of a minister or pastor).

For their part, the tenants indicated that while they are in the process of looking for other accommodation, they are concerned that a suitable alternative may not be found before the end of August. The landlord's agents testified that they did not have authority to negotiate an end date to tenancy which is different from the one sought on the notice to end tenancy (August 31, 2011). However, the landlord's agents undertook to explore with the board whether some flexibility may be found if required (September 30 versus August 31, 2011, for example). The parties will communicate directly with each other in this regard.

Other evidence submitted by the landlord includes a description of plans for renovations and repairs which the landlord wishes to have completed before winter. The landlord claims that renovations and repairs will take from "60 days from start to finish" and that "the majority of work will be volunteer labour on evenings and weekends."

Analysis

Based on the documentary evidence and testimony of the parties, I find that the tenants were served with a 2 month notice to end tenancy for landlord's use of property dated June 27, 2011.

Section 49 of the Act speaks to **Landlord's notice: landlord's use of property**, and provides in part as follows:

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:

- (b) renovate or repair the rental unit in a manner that requires the rental unit to be vacant;
- (e) convert the rental unit for use by a caretaker, manager or superintendent of the residential property;

Having considered the documentary evidence and testimony, I find on a balance of probabilities that the landlord has established entitlement to an order of possession, based on the reasons identified in the 2 month notice to end tenancy of June 27, 2011.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m., August 31, 2011**. This order must be served on the tenants. Should the tenants fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As the tenants have not gained the outcome sought in their application, their application to recover the filing fee is hereby dismissed.

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*.

DATE: August 2, 2011

Residential Tenancy Branch