



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL and FF

Introduction

The hearing recorded in this decision deals with joined applications brought by tenants of three rental units in the subject rental building seeking to have set aside a Notice to End Tenancy for landlord use dated March 15, 2012 and setting an end of tenancy date of May 31, 2012.

Issue(s) to be Decided

This matter requires a decision on whether the Notices to End Tenancy of March 15, 2012 are lawful and valid and should be upheld, or whether they should be set aside.

Background and Evidence

During the hearing, the parties submitted into evidence the subject notices each of which indicates that the reason for the notice is that:

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

The notices were accompanied by a letter of explanation and the landlord submitted a copy of a home inspection report completed on November 15, 2011 identifying a number of deficiencies requiring correction in the rental building.

However, the tenants submitted into evidence a copy of a letter from the City of Burnaby Building Department dated March 23, 2012 advising that to that date, there were no building permits or applications for building permits for the subject address.

The landlord concurred that he did not have the required permits at the time he served the Notices to End Tenancy.

Analysis

Section 49(6) of the *Act* provides that a landlord may issue a two-month Notice to End Tenancy for landlord use, "... if the landlord has all the necessary permits and approvals required by law, and intends in good faith ...to (b) renovate or repair the rental unit in a manner that requires the rental unit to be vacant;"

In the present matter, I find that the landlord did not have the required permits at the time the notices were served and they must, therefore, be set aside.

As the applications have succeeded on their merits, I find that the tenants are entitled to recover the filing fees for this proceeding from the landlord.

In the case of unit 4, the primary applicants, I find that they may recover their filing fee by withholding \$50 from the next month's rent due following receipt of this decision.

In the case of units 2 and 3, the joined applicants, I find that they may recover their filing fee by withholding \$25 from the next month's rent due following receipt of this decision.

Conclusion

The Notices to End Tenancy of March 15, 2012 are set aside, the tenancies continue, and the tenants are authorized to withhold the amount of their filing fees from their next month's rent.

The landlord remains at liberty to issue further notices when he has obtained the required permits.

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: April 16, 2012.

Residential Tenancy Branch