



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PEMBERTON HOLMES LTD.
and [tenant name suppressed to protect privacy]

Decision

Dispute Codes:

CNL

Introduction

This Dispute Resolution hearing was convened to deal with an Application by the tenant for an order to cancel a Two-Month Notice to End Tenancy for Landlord's Use dated June 17, 2014 and effective August 31, 2014. The tenant has also requested monetary compensation, an order to force the landlord to comply with the Act, and Order to force the landlord to make repairs and emergency repairs and a rent reduction.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The participants had an opportunity to submit documentary evidence prior to this hearing, and the evidence has been reviewed. The parties were also permitted to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the affirmed testimony and relevant evidence that was properly served.

Sever Unrelated Disputes

The Residential Tenancy Rules of Procedure, Rule 2.3 states that, in the course of the dispute resolution proceeding, if the arbitrator determines that it is appropriate to do so, they may dismiss the unrelated disputes contained in a single application with or without leave to reapply.

I find that the most pressing matter before me in this tenant's application is the request to cancel the Two Month Notice to End Tenancy for Landlord Use.

Because the tenant's claim for monetary compensation relates to section 67 of the Act, I find that this part of the application is distinct and separate from the tenant's request to cancel the Two Month Notice to End Tenancy for Landlord's Use under section 49 of the Act, made in the same application.

In addition, the tenant's other requests for other orders under sections 32, 33 and 62(3) of the Act to force the landlord to comply with the Act and make repairs, are also distinct matters that do not relate to section 49 of the Act.

Accordingly, I find that the portion of the application monetary claim and the other requests in the tenant's application must be severed. Therefore the landlord's request for a monetary order and other orders are dismissed with leave to reapply.

However, a determination will be made during this hearing with respect to the remainder of the tenant's application that pertains to the Notice to end the tenancy.

Issue(s) to be Decided

Should the Two-Month Notice to End Tenancy for Landlord's Use be cancelled?

Background and Evidence

The tenant submitted into evidence a copy of the Two-Month Notice to End Tenancy for Landlord's Use which indicated that:

"The landlord has all 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 testified that they did not obtain any permits to repair this rental unit, nor do they have any permits to demolish the tenant's unit. According to the landlord, the owners merely want to cease renting the unit. The landlord pointed out that they have already done many repairs to the unit at the tenant's request and she is still not happy with the state of her rental unit.

The tenant testified that the Two Month Notice to End Tenancy for Landlord's Use was only issued after she made demands for repairs under the Act and the tenant feels that the landlord is attempting to terminate her tenancy in reprisal for pursuing these issues. The tenant questions the good-faith intentions of the landlord and requests that the Two Month Notice to End Tenancy for Landlord's Use should be cancelled on that basis.

Analysis

The burden of proof is on the landlord to establish that the Two-Month Notice to End Tenancy for Landlord's Use for the stated reason is warranted and supported under the Act.

The Notice was given under section 49(6)(b) of the Act, on the grounds that the landlord has all necessary permits and approvals required by law, and intends in good faith

repair the rental unit in a manner that requires the rental unit to be vacant or demolish the unit.

I have been designated under the *Residential Tenancy Act* to conduct a hearing regarding this application to decide whether the Notice should be aside and the tenancy to continue, or whether the Notice should be upheld and the tenancy therefore to end on the effective date of the Notice.

I find that the landlord's testimony and evidence confirmed that the landlord has no intention to renovate or demolish the rental unit as they had indicated in the Two Month Notice to End Tenancy for Landlord's Use.

Therefore, based on the testimony and evidence presented during these proceedings, I find that the criteria under section 49(6) has not been met in the face of the challenge put forth by the respondent.

Accordingly, I find that the tenant's application to have the notice cancelled must be granted. I hereby order that the Two-Month Notice to End Tenancy for Landlord's Use issued on June 17, 2014, is cancelled and of no force nor effect.

Conclusion

The tenant is successful in the application and the Two Month Notice to End Tenancy for Landlord's Use is ordered cancelled and of no force nor effect.

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 26, 2014

Residential Tenancy Branch

