



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WIDSTEN PROPERTIES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL, FF

Introduction

This hearing dealt with the tenant's application for dispute resolution, seeking to cancel a notice to end tenancy issued by the landlord for the landlord's use of the property. The tenant also applied for the recovery of the filing fee.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

Issues(s) to be Decided

Has the landlord validly issued the notice to end tenancy?

Background and Evidence

The tenancy started on December 01, 2014 for a fixed term of one year ending November 30, 2015. The monthly rent is \$1,700.00 due on the first of each month. Prior to moving, in the tenant paid pet and security deposits in the total amount of \$1,700.00.

The landlord explained that due to personal issues, she had to sell the property and had listed it for sale sometime during the tenancy. In August 2015, the landlord decided that if a buyer was not found, she would move in along with her parent, for financial reasons.

On August 27, 2015 the landlord issued the tenant a two month notice to end tenancy for landlord's use of property, to be effective on November 30, 2015. The reason for the notice was that the landlord intended to move into the rental unit. The tenant disputed the notice in a timely manner.

However, shortly after serving the notice to end tenancy, the landlord found a buyer for the property and the sale was finalized on September 14, 2015. The landlord withdrew the notice to end tenancy dated August 27, 2015, for landlord's use of property and served the tenant with a second notice to end tenancy for landlord's use of property.

The reason for the second notice is described as, all of the conditions for sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give a notice to end tenancy, because the purchaser or a close family member intends in good faith to occupy the rental unit.

The landlord attached a copy of the sale contract which confirms that the purchaser has asked for vacant possession of the rental unit.

During the hearing the tenant requested that her application be amended to include her dispute of the second notice to end tenancy. Since the tenant had made application prior to receiving the second notice and her request did not prejudice the landlord, I agreed to allow the tenant to dispute the second notice during this proceeding.

Also during the hearing, the landlord agreed to cover the filing fee paid by the tenant in the amount of \$50.00.

Analysis

Section 49 (5) of the *Residential Tenancy Act* states that a landlord may end a tenancy in respect of a rental unit if

- (a) The landlord enters into an agreement in good faith to sell the rental unit,
- (b) All the condition on which the sale depends have been satisfied, and
- (c) The purchaser asks the landlord in writing, to give notice to end the tenancy on one of the following grounds:
 - (1) The purchase is an individual and the purchaser or a close family member of the purchaser intends in good faith to occupy the rental unit

In this case the landlord was requested in writing to hand over vacant possession of the rental unit. Therefore, I find that the notice to end tenancy must be upheld.

During the hearing, the landlord made a request under section 55 of the legislation for an order of possession. Under the provisions of section 55(1), upon the request of a landlord, I must issue an order of possession when I have upheld a notice to end tenancy. Accordingly, I so order.

The notice to end tenancy is upheld and I grant the landlord an order of possession effective on or before 1:00 p.m. on November 30, 2015.

The tenant must be served with the order of possession. Should the tenant 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.

I grant the tenant a monetary order under section 67 of the *Residential Tenancy Act*, for \$50.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord an order of possession effective on or before **1:00 p.m. on November 30, 2015.**

I grant the tenant a monetary order in the amount of **\$50.00.**

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: November 06, 2015

Residential Tenancy Branch

