



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FF

Introduction

On September 13, 2016, the Tenant submitted an Application for Dispute Resolution asking to cancel a 2 Month Notice to End Tenancy for Landlord Use of Property dated August 29, 2016, and to recover the filing fee for the Application.

The matter was set for a conference call hearing. Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence, orally and in written and documentary form, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

Should the 2 Month Notice to end tenancy be cancelled?
Is the Landlord entitled to an order of possession?

Background and Evidence

The Landlord and Tenant both testified that the tenancy began on October 13, 2016, as a month to month tenancy. Rent in the amount of \$650.00 is payable on the first of each month. The Tenant paid the Landlord a security deposit in the amount of \$300.00.
The Landlord testified that

The Landlord testified that her mother is moving into the rental unit. She testified that her mother is moving into the city to be closer to her and for career and school opportunities. The Landlord provided a letter from her mother that states she is moving to the city and moving into the rental unit.

The Landlord issued the Tenant a 2 Month Notice To End Tenancy For Landlord's Use Of Property dated August 29, 2016 ("the 2 Month Notice"). The Landlord handed the 2 Month Notice to the Tenant on August 30, 2016. The reason for ending the tenancy on the 2 Month Notice states:

The rental unit will be occupied by the Landlord or the Landlord's spouse or a close family member of the Landlord or the Landlord's spouse.

The Notice provides information for Tenants who receive the Notice. The Notice states that a Tenant has the right to dispute the Notice within 15 days after it is assumed to be received by filing an Application for Dispute Resolution at the Residential Tenancy Branch.

The Tenant disputed the Notice within the required timeframe. The Tenant testified that if the Landlord would have explained to her that it was the Landlord's mother moving into the unit, the Tenant would not have applied for Dispute Resolution.

Section 51 of the *Act* states that a Tenant who receives a 2 Month Notice To End Tenancy For Landlord's Use Of Property is entitled to receive from the Landlord on or before the effective date of the Landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement. The Landlord testified that she will pay the Tenant the compensation forthwith.

Residential Tenancy Branch Policy Guideline #2 states that the *Act* allows a Landlord to end a tenancy if the Landlord intends in good faith to move in, or allow a close family member to move into the unit. A claim of good faith requires honesty of intention with no ulterior motive. The Landlord must intend the use the rental unit for the purpose stated on the Notice.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The Notice indicates the rental unit will be occupied by the Landlord or the Landlord's spouse or a close family member of the Landlord or the Landlord's spouse. The Landlord testified that her mother intends to occupy the unit.

There is insufficient evidence from the Tenant to establish that the Notice was issued in bad faith. I am satisfied that the Landlord intends to use the rental unit for the purpose stated in the Notice.

I dismiss the Tenant's Application to cancel the 2 Month Notice to End Tenancy For Landlord's Use Of Property dated August 29, 2016.

Under section 55 of the Act, when a Tenant's Application to cancel a Notice to end tenancy is dismissed and I am satisfied that the Notice to end tenancy complies with the requirements under section 52 regarding form and content, I must grant the Landlord an order of possession.

I find that the Notice complies with the requirements regarding form and content and I find that the Landlord is entitled to an order of possession on the effective date of the 2 Month Notice. The Tenant testified that she is moving out of the unit on November 5, 2016. The Landlord agreed that the Tenant could remain in the rental unit until November 5, 2016. The Landlord requested that the order of possession be effective as of November 6, 2016. Since the effective date of the Notice has passed, the Landlord is entitled to an order of possession effective at 1:00 p.m. on November 6, 2016, after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

As the Tenant was not successful with her Application, I do not grant recovery of the cost of the filing fee.

Conclusion

The Tenant's Application to cancel the 2 Month Notice To End Tenancy For Landlord's Use Of Property dated August 29, 2016, is dismissed.

I grant the Landlord an order of possession effective on November 6, 2016, after service on the Tenant.

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 02, 2016

Residential Tenancy Branch