



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1072710 BC Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL

Introduction

This is an application brought by the tenant requesting an order canceling a Notice to End Tenancy that was given for landlord use.

A substantial amount of documentary evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All parties were affirmed.

Issue(s) to be Decided

The issue is whether or not to cancel or uphold a Notice to End Tenancy that was given for landlord use.

Background and Evidence

On April 28, 2017, the landlord's personally served the tenant with a two month Notice to End Tenancy stating the following reason.

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

The advocate for the tenant has argued that the Notice to End Tenancy that was issued to the tenant is invalid because the landlord failed to sign or date that notice as required under section 52 of the Residential Tenancy Act. The advocate is therefore requesting that that Notice to End Tenancy be canceled, as it is not in the required form.

The advocate for the tenant has also argued that the tenant was given no information about the extent of the renovations being done to unit, and therefore it is not clear whether vacant possession of this rental unit is required, or whether the renovations could be done with the tenant in place.

The advocate for the tenants further argued that they also have no evidence of any permits or approvals being put in place, as required before giving a Notice to End Tenancy under this section.

The landlords testified that, at this point, no approvals or permits are required to begin the process, however approvals and permits will be required for electrical and plumbing, but those will not be required for some time and since they are only valid for 30 days it is premature to take out any electrical or plumbing permits.

The landlords further testified that this is going to be a major construction project involving digging up one side of the building to deal with foundation issues, the units are all going to be completely gutted down to the studs, and all windows and doors are going to be replaced, and it would be impossible for the tenants to live in the rental unit over the long period of time required to do this renovation, as there would be no water or electricity.

The landlords are therefore request that the Notice's to End Tenancy be upheld.

Analysis

It is my finding that the Notice to End Tenancy issued to the tenant has a fatal flaw as section 52 of the Residential Tenancy Act does require that Notices to End Tenancy be both signed and dated and, in this case, the landlord has failed to do either.

Section 52(a) of the Residential Tenancy Act reads as follows:

52 In order to be effective, a notice to end a tenancy must be in writing and **must (my emphasis)**

(a) be signed and dated by the landlord or tenant giving the notice,

Clearly, for this notice to be effective it was required to be signed and dated, as the Act states must, and therefore, pursuant to section 62 of the Residential Tenancy Act, it is my decision that the Notice to End Tenancy served on the tenant is hereby canceled and this tenancy continues.

Conclusion

The two month Notice to End Tenancy has been canceled and this tenancy continues.

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: June 26, 2017

Residential Tenancy Branch