



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL

Introduction

This hearing dealt with the tenant's application pursuant to section 49 of the *Residential Tenancy Act* (the "Act") for cancellation of a 2 Month Notice to End Tenancy for Landlord's Use.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord was assisted by an interpreter.

As both parties were present service was confirmed. The landlord initially claimed that they were not served with the tenant's application and evidence but subsequently clarified that the materials were received by the landlord's agent who forwarded them to the landlord. The landlord testified that they had not served any evidence on the tenant. Based on the testimonies I find that the landlord was sufficiently served with the tenant's materials in accordance with sections 88, 89 and 71 of the *Act*.

Issue(s) to be Decided

Should the 2 Month Notice be cancelled? If not is the landlord entitled to an Order of Possession?

Background and Evidence

This fixed-term tenancy began on April 15, 2019. Monthly rent is \$3,300.00 payable on the 15th of each month. The landlord issued a 2 Month Notice dated March 23, 2020 with an effective end of tenancy date of May 14, 2020. The reason provided on the 2 Month Notice for the tenancy to end is that:

All of the conditions for the sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give this Notice because the purchaser or a close family member intends in good faith to occupy the rental unit.

No copy of a written request by a purchaser was entered into evidence. The landlord did not provide any documentary evidence in support of their submission that the rental unit has been sold.

Analysis

Section 49(8)(a) of the *Act* provides that upon receipt of a notice to end tenancy for landlord's use of property issued under subsection (5) the tenant may, within fifteen days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch.

I accept the undisputed evidence that the 2 Month Notice was received on or about March 23, 2020 and the tenant filed their application for dispute resolution on that date. I therefore find that the tenant is within the time limits provided under the *Act* to dispute the 2 Month Notice.

When a tenant files an application to dispute a Notice to End Tenancy, the landlord bears the burden to prove the grounds for the 2 Month Notice. The landlord testified that the rental property has been sold but failed to submit any documentary evidence in support of their submissions. The landlord did not provide a contract of purchase and sale, no written request from a purchaser that a 2 Month Notice be issued or any documentary materials to demonstrate that the rental unit has been sold or even listed for sale.

Based on the paucity of the landlord's evidence, I find the landlord has failed to satisfy the burden of proof and I therefore allow the tenant's application to cancel the 2 Month Notice.

Conclusion

The tenant is successful in their application. The 2 Month Notice is cancelled and of no further force or effect. This tenancy continues until ended in accordance with the *Act*.

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: May 19, 2020

Residential Tenancy Branch