



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL-4M, FFT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "**Act**") for:

- cancellation of two of the landlords' Four Month Notice to End Tenancy for Demolition or Conversion of Rental Unit (the "**Notices**") pursuant to section 49; and
- authorization to recover the filing fee for this application from the landlords pursuant to section 72.

The tenant attended the hearing. Landlords HS and SU attended the hearing. HS is the sole owner of the corporate landlord and SU is the corporate landlord's agent. All were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The tenant testified, and the landlords confirmed, that the tenant served the landlords with the notice of dispute resolution package and supporting documentary evidence. The landlords testified, and the tenant confirmed, that the landlords served the tenant with their documentary evidence. I find that all parties have been served with the required documents in accordance with the Act.

Issues to be Decided

Is the tenant entitled to:

- 1) an order cancelling the Notices; and
- 2) recover the filing fee?

If not, are the landlords entitled to an order of possession?

Background and Evidence

While I have considered the documentary evidence and the testimony of the parties, not all details of their submissions and arguments are reproduced here. The relevant and important aspects of the parties' claims and my findings are set out below.

The tenant and HS's now-deceased husband entered into a written tenancy agreement starting June 1, 2016. After HS's husband's death, HS assumed the role as landlord and the tenant paid monthly rent to her directly. Monthly rent is \$2,334 and is payable on the first of each month. The tenant paid a security deposit of \$1,050, which the HS continue to hold in trust for the tenant.

On June 30, 2022, the landlord served the tenant with a four month notice to end tenancy for demolition of the rental unit. The tenant disputed it and the matter came to a hearing. At the hearing, the landlord agreed to withdraw the notice as it did not meet the statutory requirements.

On December 21, 2022, the landlord HS issued another four month notice to end tenancy for demotion of the rental unit, which SU signed and sent to the tenant by registered mail. He then attended the rental unit and served this notice to the tenant personally (collectively, the "**Notices**"). These two notices were identical, but for their date. The Notices list HS as the landlord and were both signed by SU.

They both specify May 1, 2023 as the date by which the tenant must vacate the rental unit and both list the reason for ending the tenant as the landlords are "going to demolish the rental unit". The permit number and date of issuance of the demolition permit is listed on both.

The tenant disputed the Notices on January 23, 2022.

The landlords called a witness ("**TC**") to give evidence. He testified that he is a contractor hired by the corporate landlord to take care of the demolition of the rental unit and the excavation & grading of the residential property. He testified that the structures on the adjoining properties had already been demolished and he had obtained a permit to undertake the demolition of the rental unit. He testified that once the demolition is completed, the residential property will be combined with the two adjoining properties and then subdivided into four unique parcels.

The landlord submitted a copy of the demolition permit into evidence. It indicates that it was issued on December 20, 2022 and expires on May 20, 2023 (the "**December Permit**"). It specifies that it is a "conditional demolition" permit. TC testified that it is conditional on the tenant vacating the rental unit. It appears to have been signed digitally by a municipal employee.

The landlord also submitted a copy of a letter from the municipal Planning and Development Division dated July 11, 2022, which indicated that the landlord had applied for a demolition permit at that time and that the planned subdivision of the residential property and its adjoining properties is not yet approved.

The tenant testified that she received a copy of December Permit, as well as copies of two other permits. These copies were similar to the December Permit except that the first was issued on December 30, 2022 and expired on November 30, 2022 (the “**First June Permit**”) and the second was issued on December 30, 2022 and expired on December 27, 2022 (the “**Second June Permit**”). The First June Permit does not appear to be digitally signed, and the Second June Permit appears to have been signed by hand.

The tenant argued that the discrepancies between these three documents suggests that none of them are genuine. She also argued that the landlords did not provide any receipt showing payment for the permit or a copy of the demolition permit application submitted to the municipality, which suggests that they are not authentic.

TC testified that after he received the First June Permit he noticed that the expiration date was incorrect. He asked the municipality to be reissue it with a corrected date, which was how these Second June Permit came into existence. He testified that the Second June Permit expired as a result of the landlords withdrawing at the first notice to end tenancy for demolition at the prior hearing. He testified that the landlords applied for the December Permit in anticipation of serving the tenant with the Notices.

TC did not explain why the signature varied between the three different permits.

The tenant also argued that the December Permit was not valid because someone had posted a sign outside her door which stated “lot for sale” and that it was “approved”. She argued that the December Permit was conditional, and therefore any sale of the residential property was not approved. TC stated about the sale was “conditionally approved”.

The tenant also gave testimony as to the conduct of various agents of the landlords, including attending the rental unit late at night and knocking on the door. I do not find such conduct is relevant to the issue at hand and will not provide further details.

Analysis

Section 49(60) of the Act states:

Landlord's notice: landlord's use of property

(6) A landlord may end a tenancy in respect of a rental unit if the landlord has all the necessary permits and approvals required by law, and intends in good faith, to do any of the following:

(a) demolish the rental unit;

Residential Tenancy Branch Policy Guideline 2B states:

Good faith means a landlord is acting honestly, and they intend to do what they say they are going to do. It means they are not trying to defraud or deceive the tenant, they do not have an ulterior purpose for ending the tenancy, and they are not trying to avoid obligations under the RTA or MHPTA or the tenancy agreement.

Based on the evidence presented at the hearing, I am satisfied that the landlords intend, in good faith, to demolish the rental unit and that they have obtained the necessary permits to do so.

I accept TC's explanation as to why there are multiple permits and why there are two versions of the June Permit. I do not find that the discrepancy in signatures between the three permits means that any of them are fraudulent. TC testified that he applied for permits and this testimony is corroborated by the letter he received in July 2022 which indicates as much.

I acknowledge that there are likely other documents that the landlords could have submitted which would have corroborated TC's testimony (such as an invoice showing payment for the permits or a copy of the permit application). However, the lack of such documents does not cause me to doubt the authenticity of the December Permit. Its existence, coupled by TC's testimony (which is corroborated by other documents) satisfies me that the landlords have applied for and obtained a demolition permit for the residential property.

I do not find the fact that the residential property or the adjoining properties are being marketed as "approved" for sale has any bearing on the authenticity of the December Permit. Landlords can market the residential property as they see fit and must bear the consequences of any misrepresentation.

I am satisfied that this is the sole permit required to undertake the rental unit's demolition.

All the evidence tendered at the hearing indicates that the landlords intend to consolidate the residential property with two adjoining properties and then subdivide the resultant property into four new parcels. I accept that the demolition of the rental unit is necessary to accomplish this. I do not find that the landlord has any ulterior motive for issuing either of the Notices. Accordingly, I find that they have been issued in good faith.

I have reviewed the Notices, and find that they comply with the form and content requirements set out at section 52 of the Act. As such, and as I have found they have been issued for a valid reason, without ulterior motive, and as the landlord has obtained the required permit, I find that the Notices are valid.

I dismiss the tenant's application to cancel the Notices without leave to reapply.

Section 55 of the Act requires an arbitrator to issue an order of possession to the landlord in the event the tenant applies to disputes a notice to end tenancy and the application is dismissed.

Accordingly, I issue the landlords an order of possession effective May 1, 2023 (the effective date listed on the Notices).

As the tenant has been unsuccessful in her application to cancel the Notices, I decline to order that the landlords reimburse her the filing fee.

Conclusion

I dismiss the tenant's application in its entirety without leave to reapply.

Pursuant to section 55 of the Act, I order that the tenant deliver vacant possession of the rental unit to the landlords by May 1, 2023 at 1:00 pm.

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: March 22, 2023

Residential Tenancy Branch