



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNL, FF

Introduction

This hearing dealt with an Applications for Dispute Resolution that were joined to be heard together, by the tenants filed under the *Residential Tenancy Act* (the “Act”) to cancel the Two Month Notices to End Tenancy for Landlord’s Use of Property, (the “Notices”) issued on November 23, 2022, and to recover the cost of the filing fee.

Both parties appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, a and make submissions at the hearing.

Preliminary and Procedural Matters

In this case, the tenant’s listed the landlord’s agent which is listed in the Notice. This was the correct process. However, the property has now been transferred to the purchaser. The landlord’s agent JA request to be removed as the issue is now between the new owners and tenants.

I find the landlord’s agent request reasonable. I have removed the landlord’s agent name from the style of cause and have added the new owners corporate name they gave in the hearing; however, this name is inconsistent with the names written in the Notice and in the buyers notice to seller for vacant possession as under the signature line for the buyers they both show that each buyer is signing using different company names. I have noted these names on the cover page of the Decision

Issue(s) to be Decided

Should the Notices be cancelled?

Background and Evidence

Unit #1 tenancy began on April 1, 2002. Rent in the amount of \$630.00 was payable on the first of each month. A security deposit was not noted in the tenant's application.

Unit #2 tenancy began on May 15, 2009. Rent in the amount of \$670.00 was payable on the first of each month. A security deposit of \$300.00 was paid by the tenant.

Unit #3 tenancy began on December 1, 2018. Rent in the amount of \$779.00 was payable on the first of each month. A security deposit of \$375.00 was paid by the tenant.

The parties agreed that the tenants received the Notice on November 24, 2022. The reason within the Notice was 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 close family member intends in good faith to occupy the rental unit.

The landlord testified that they purchased the property and requested the Notice be given. The landlord stated that they took legal possession of the property on April 4, 2022, which is jointly owed with their business partner under their company name.

The landlord testified that when they purchased the property the timing worked really well because their parents are building a home which can take up to two years to complete and they need a place to live and their business partners parents want to move from up north. The landlord stated that all three units are very small and they need all the units to ensure their parents have enough space.

The agent for the tenants stated that these rental units have low rent for the area and are small and old. The agent stated that these are long term tenancies going back as far as 20 years. The agent stated that they have a hard time believing that each of the landlords' parents want to move into these units when they are homeowners and one of them is living on 20 acres. The agent stated that it would be impossible for the tenant to determine if these people moved into the rental unit as they are on top of commercial space. The agent stated that they believe that this is simply an attempt to evict the tenants so the landlord can renovate the property and obtain a higher rent.

The landlord responded that they only intend to repaint the rental units and clean them up before their parents move in. No major repairs.

Analysis

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

Section 49 of the Residential Tenancy Act (RTA) allows a landlord to end a tenancy if the landlord:

1. intends, in good faith, to occupy the rental unit, or a close family member intends, in good faith, to occupy the unit;
2. is a family corporation and a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the rental unit;
3. enters into an agreement in good faith to sell the rental unit, all conditions of the sale are satisfied, and the purchaser asks the landlord, in writing, to give notice to end the tenancy because the purchaser or a close family member intends, in good faith, to occupy the unit.

In this case, I am not satisfied that each of the purchasers, which I note is a holding company, intends in good faith to have their individual parents occupy the three rental units.

I find at the very least I would expect the landlord's parents to attend the hearing to provide affirmed testimony or to provide a sworn affidavit that they have viewed the rental units, found them suitable and they are intending to reside in the premises for at least six months.

I find without any supporting evidence that the landlord has not met the burden of proof as this simply could be an attempt by the holding company to evict the tenants to renovate the rental units with the intent to obtain a higher rent. Therefore, I grant the tenants' request to cancel the Notices.

As each of the tenant's applications were successful, I find that they are entitled to recover the cost of the filing fee.

Therefore, I authorize the tenants to deduction the amount of \$100.00 from their respective rent for May 2023, to recover the cost of the filing fee. So rent for unit #1, #2, and #3 will be reduced by \$100.00 for May 2023,rent only.

Conclusion

The tenant's respective applications are granted. The Notice has not force or effect.

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: April 14, 2023

Residential Tenancy Branch