



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNL

Introduction

The Tenant filed an Application for Dispute Resolution (the “Application”) on March 14, 2023 seeking an order to cancel the Two Month Notice to End Tenancy for the Landlord’s Use of Property (the “Two-Month Notice”). The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on April 11, 2023.

Both parties attended the conference call hearing. At the outset, the Landlord confirmed their receipt of the Tenant’s Notice of Dispute Resolution Proceeding. The Tenant confirmed they received the evidence prepared by the Landlord. On the basis of both parties’ confirmation of disclosure from the other, I proceeded with the hearing.

Issue(s) to be Decided

Is the Tenant entitled to cancellation of the Two Month Notice?

Should the Tenant be unsuccessful in seeking to cancel the Two Month Notice, is the Landlord entitled to an order of possession pursuant to s. 55(1) of the *Act*?

Background and Evidence

The Landlord provided a copy of pages from the tenancy agreement. This shows a prior tenant that signed the agreement in 2020. The Tenant here moved into the rental unit during that previous tenancy, with a verbal agreement in place after the prior tenant

moved out. The Tenant and Landlord in this hearing confirmed the agreement was basic in its design and terms.

The Landlord issued this Two-Month Notice on February 27, 2023, provided in their evidence. It provides a move-out end-of-tenancy date as April 30, 2023. The Tenant in the hearing confirmed that as of the date of the hearing they continued to reside in the rental unit.

Page 2 of the document shows the Landlord's indication:

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.

The Landlord also provided a document titled "Tenant Occupied Property – Buyers Notice to Seller for Vacant Possession", signed on February 27, 2023. This is the Purchaser's request to the Landlord for vacant possession of the rental unit, by 1:00pm on April 30, 2023.

In the hearing, the Landlord stated they issued the One-Month Notice on this basis.

In the hearing, the Tenant explained that they live in the lower part of the rental unit property. They questioned the purchaser's need for the whole of the rental unit home, when the home is split into upper-lower units.

The Landlord confirmed the Purchaser's family was intending to use the lower part of the home, with the Purchaser occupying the upper part upon their scheduled move in.

The Tenant asked for more time in which to vacate the rental unit, with May 1st being the earliest availability date for their rental elsewhere upon moving out. The Landlord provided the time of 3pm on May 1st as the Purchaser's scheduled move into the rental unit. The Tenant proposed their own move-out time of 12:00pm (i.e., noon) and the Landlord assented to this, providing the rental unit is empty and in a state of readiness that complies with s. 37, i.e., reasonably clean and undamaged except for reasonable wear and tear. The Tenant indicated they were already in the process of preparing for their move out.

Analysis

The *Act* s. 49(5) provides that a landlord may end a tenancy by giving a Two-Month Notice if the landlord enters into an agreement to sell the rental unit, and the purchaser asks the landlord in writing to give notice to end the tenancy on the basis that either the purchaser, or a close family member, intends to occupy the rental unit.

The *Act* s. 55 provides that I must grant to a landlord an order of possession if the Two-Month Notice complies with the s. 52 form and content requirements, and I dismiss a tenant's application or uphold a landlord's notice.

In this matter, the Landlord bears the onus to prove that the reason for ending the tenancy is valid and sufficient. I find the Landlord has met the burden to show they issued the Two-Month Notice in good faith. The Tenant did not provide sufficient evidence to show otherwise, basically questioning the purchaser's need for use of the whole of the rental unit home.

Minus evidence to the contrary, I find there is sufficient evidence to show the Purchaser's own need for the rental unit. This includes actual needs for space because of the number of family members living in the home, as explained by the Landlord based on their knowledge. I find these needs are legitimate without evidence that contradicts this. In sum, the Purchaser via the Landlord is not prevented from ending the tenancy for this reason.

The Tenant did not provide testimony or other evidence to show there was any communication with the Landlord that undermines the Purchaser's stated intention on their need for the unit. Without such evidence of conflicting messages or other communication, there are no indications that show the issuance of the Two-Month Notice was done in bad faith.

For these reasons, I uphold the Two-Month Notice issued on February 27, 2023 and find it was issued in good faith, minus evidence to the contrary. On my review, the Two-Month Notice complies with the s. 52 requirements on form and content. Given this finding, the Landlord/Purchaser is entitled to an order of possession on the effective date.

The parties agreed on a suitable move-out date for the Tenant: May 1, 2023 by 1:00pm. As a measure of surety to the Landlord in this matter, I grant an Order of Possession for that exact date and time.

Conclusion

For the reasons set out above, I dismiss the Tenant's Application, without leave to reapply.

I grant an Order of Possession to the Landlord effective **May 1, 2023 at 1:00pm**. The Landlord must serve this Order of Possession on the Tenant if necessary. Should the Tenant fail to comply with this Order, the Landlord may file this Order in the Supreme Court of British Columbia, where it may be enforced as an Order of that court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: April 12, 2023

Residential Tenancy Branch