



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNL, FFT

Introduction

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

- cancellation of the landlord's 2 Month Notice to End Tenancy for Landlords Use of Property (the 2 Month Notice) pursuant to section 49; and
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and argument. The landlord acknowledged receipt of the tenants' evidence. The landlord did not submit any documentary evidence for this hearing.

Issues to be Decided

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

Should an order be made to compel the landlord to comply with the *Act*, regulation or tenancy agreement?

Background and Evidence

The landlord gave the following testimony. The tenancy began on or about January 13, 2022. Rent in the amount of \$1200.00 is payable in advance on the first day of each month. The landlord issued a Two Month Notice to End Tenancy for Landlords Use of Property on December 7, 2022 as the landlords daughter wishes to move into this unit and wants the tenant to move out. The landlord stated that the tenant was informed at the time of move in that she would want the unit back for when her daughter goes to

university. The landlord testified that her daughter is now 20 years old and that she needs to have her own space and independence. The landlord testified that she also wants her own space free of her daughter and that it would be beneficial to them both. The landlord testified that she has no intention of re-renting the suite as alleged by the tenant. The landlord requests an order of possession.

The tenant gave the following testimony. The tenant testified that “I have my doubts” if the landlords daughter is moving in. The tenant testified that he believes the idea of evicting came from him having guests over and playing his electric drums. The tenant thinks that the landlord will be re-renting the unit for more money since the allowable increase is only 2%.

Analysis

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the tenant’s claim and my findings around each are set out below.

The tenant has called into question whether the landlord has issued the notice in good faith. Residential Tenancy Policy Guideline 2 addresses the “good faith requirement” as follows.

Good faith is an abstract and intangible quality that encompasses an honest intention, the absence of malice and no ulterior motive to defraud or seek an unconscionable advantage.

A claim of good faith requires honesty of intention with no ulterior motive. The landlord must honestly intend to use the rental unit for the purposes stated on the Notice to End the Tenancy. This might be documented through:

a Notice to End Tenancy at another rental unit;

an agreement for sale and the purchaser’s written request for the seller to issue a Notice to End Tenancy; or

a local government document allowing a change to the rental unit(e.g., building permit) and a contract for the work.

If evidence shows that, in addition to using the rental unit for the purpose shown on the Notice to End Tenancy, the landlord had another purpose or motive, then that evidence raises a question as to whether the landlord had a dishonest

purpose. When that question has been raised, the Residential Tenancy Branch may consider motive when determining whether to uphold a Notice to End Tenancy.

If the good faith intent of the landlord is called into question, the burden is on the landlord to establish that they truly intend to do what they said on the Notice to End Tenancy. The landlord must also establish that they do not have another purpose that negates the honesty of intent or demonstrate they do not have an ulterior motive for ending the tenancy.

The landlord gave clear concise and credible testimony. She provided details as to the logistical and personal benefits for both her and her daughter to take possession of the unit in preparation for her to attend university. Based on the above, and on a balance of probabilities, I find that the landlord has issued the notice in good faith. As a result, the landlord is entitled to an order of possession pursuant to Section 55 of the Act. The tenancy is terminated.

Conclusion

The tenancy is terminated. The landlord is granted an order of possession. The tenants' application is dismissed in its entirety without leave to reapply.

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 20, 2023

Residential Tenancy Branch