



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding GOODRICH REALTY INC.
and [tenant name suppressed to protect privacy]

Dispute Codes

CNL, FFT

DECISION

Introduction

The Tenant filed an Application for Dispute Resolution (the “Application”) on March 8, 2023 seeking an order to cancel the Two Month Notice to End Tenancy for the Landlord’s Use of Property (the “Two-Month Notice”). Additionally, they seek reimbursement of the Application filing fee. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on June 16, 2023.

Both parties attended the conference call hearing. On the basis that both party confirmed they received full disclosure of evidence 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*?

Is the Tenant eligible for reimbursement of the Application filing fee, pursuant to s. 72 of the *Act*?

Background and Evidence

The Tenant provided a copy of the tenancy agreement. The parties signed the agreement June 2012 for the tenancy that began on July 1, 2012. The rent was set at \$950. This amount increased over the course of the tenancy to \$1,142.

The Landlord issued this Two-Month Notice on February 21, 2023. The Tenant provided a copy of this document in their evidence. It provides the move-out end-of-tenancy date as April 30, 2023. The Tenant in the hearing provided that they did not move out on this date and have continued to reside in the rental unit through to the time of the hearing.

Page 2 of the document shows the landlord's indication that "The rental unit will be occupied by the landlord or the landlord's close family member . . .". They gave the additional detail that child of the landlord or the landlord's spouse will occupy the rental unit.

The Landlord in their evidence provided a written summary, undated. They responded to two charges by the Tenant that the tenancy was ending for a reason other than the Landlord's own use of the rental unit: the Tenant not advising the Landlord that they were away from the rental unit for more than seven days (as a requirement in the tenancy agreement). There was a flood in the rental unit during one period of time when the Tenant was away. The Tenant was not forthcoming with the information to the Landlord, and "it was difficult and much more lengthy to handle the repair, having to go through additional work and investigations which would not be needed if the time the tenant was away was known." The insurance company denied the Landlord's claim for this reason.

In a separate matter of repair in the rental unit, the Landlord described the Tenant as "uncooperative", and "difficult to work with."

In a separate written statement, the Landlord described their family member's need for the rental unit. This family member, accepted in to university in 2020, has not had the chance to live away from home and "experience adulthood". This family member turned 21 in December 2022, and the Landlord informed them that they would consider getting them a place. The rental unit is close to where the Landlord lives, and the Tenant's family member grew up at the rental unit property.

Specific to the Tenant's Application, the Landlord described their family member's reaction:

It is hard for [the Landlord's family member] to understand, and I admit for us as well, how that by lawfully following the prescribed protocol to take back possession of our own property which we worked so hard to get, any person can just hold up the life plans of someone because they feel some form of entitlement.

The Landlord's other evidence included:

- their letter to the Tenant dated February 22, 2021 in which they reviewed the circumstances of the furnace repair in the rental unit – this listed the Tenant's threat to "go to the media" about the needed repair after demanding a deadline for the following weekday noon, with no discussion on the matter
- their letter to the Tenant dated October 26, 2022 in which they set out a plan for repair on water damage in the rental unit – they requested information on dates the Tenant was away during which time the water damage occurred
- their letter to the Tenant dated November 18, 2022 in which they set out an update of the water damage repair status – a discussion on rent rebate depends on a discussion "as soon as assessment and sufficient information become available". The Landlord reiterated the term of the tenancy agreement that calls for the Tenant to advise the Landlord when they would be away.
- their letter to the Tenant dated January 3, 2023 in which they set out "full rent rebate" from the date the Tenant reported the water issue, then 40% reduction from the date the Landlord advised the Tenant the suite was ready for their return, except for the living room
- their letter to the Tenant dated January 10, 2023 in which they re-stated the rent rebate through to January 10, 2023, asking again to the Tenant for dates they were away from the rental unit prior to finding water damage

In the hearing, the Landlord clarified that nothing changed in the interim period from the Tenant's Application to the time of the hearing; their family member still needs the rental unit. That family member's summer courses already started. The Landlord stated the hearing is not about repairs to the rental unit. They never sought to end the tenancy in the past either because of the need for repairs in the past, nor the Tenant's manner

when dealing with the Landlord on things. They reiterated that they dealt with manners affecting the tenancy in a professional manner.

In their evidence, the Tenant provided a copy of their letter to the Landlord, dated January 23, 2023. They described the Landlord's "harassing and aggressive manner in which you have treated me since the leak". They stated their stays away from the rental unit are "not of anyone's business", and this was not an absence of more than 7 days. Further: "Any further requests from you is continued harassment."

The Tenant in the hearing stated summarily that they don't believe the Landlord's family member has the need for the rental unit, when online classes are available to them.

The Tenant also reviewed the circumstances of the water damage in the rental unit, and provided that repairs for that were only completed towards the end of January. The Tenant had another matter of dispute at the Residential Tenancy Branch. The Tenant also set out that other repairs in the rental unit were delayed or prolonged, and "these issues go back a few years."

Analysis

The *Act* s. 49(3) provides that a landlord may end a tenancy by giving a Two-Month Notice "if a landlord or a close family member of the landlord intends in good faith to occupy the rental unit."

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

I find the Landlord presented an actual need for their family member's use of the rental unit. The rental unit property was in the family for quite some time, and I find the Landlord credible on the singular point that they had long-term plans for the rental unit, and there were no alternating plans along the way, such as a sale or other renovations. In summary on this point, I find the Landlord's intentions regarding

ownership have not changed over the long term, and it is logical that they intended to use the rental unit for other family purposes at some point in the future.

I find the Landlord's explanation reasonable that the time for their family member's use of the rental unit has arrived. This is linked to their family member's reaching the appropriate age, and at this juncture in their life, that family member seeks independence.

I also give weight to the Landlord's statements and testimony because of the manner in which they dealt with the Tenant over the course of the tenancy. The Landlord had a property manager in place to handle communication with the Tenant. In the documents provided by the Landlord and the Tenant, I find there was never any communication of the Landlord threatening to end the tenancy, despite a number of reminders and requests to the Tenant for details on the water damage event. The fact that the Landlord gave no communication about ending the tenancy because of challenges to them lends credence to the Landlord's account that they are seeking to end the tenancy for the reason they stated.

I also give weight to the Landlord's account because they explained directly in the hearing that this dispute is not about repairs or the manner in which they were completed. I find the reason the Landlord provided communication about repairs as evidence in this hearing was to show they dealt with the Tenant in a professional manner, and there was no mixed messaging about ending the tenancy for any reason other than their own family's use of the rental unit. The Landlord did include a direct statement explaining that need in detail.

The Tenant did not provide sufficient evidence to show the Landlord's need for the rental unit was prompted by the Tenant's actions or requests. The Tenant stated their simple disbelief of the Landlord's stated family need; however, that simple statement from the Tenant does not constitute proof of the Landlord's bad faith or other intention in seeking to end this tenancy. The Tenant did not provide testimony or other evidence to show there was any communication with the Landlord that undermines the Landlord's stated intention on their need for the rental unit.

There is no evidence from the Tenant that outweighs that of the Landlord regarding the Landlord's stated intention. There is no information that runs counter to the Landlord's description. There is no evidence to show the Landlord made other indications to the Tenant regarding the need for the rental 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 21, 2023 and find the Landlord issued it 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 is entitled to an order of possession.

The tenancy shall end with service of the Order of Possession. Because the Tenant is not successful in their Application, they are not entitled to reimbursement of the \$100 Application filing fee.

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 TWO DAYS after they choose to serve it to the Tenant**. The Landlord must serve this Order of Possession to the Tenant. Should the Tenant not 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: June 26, 2023

Residential Tenancy Branch