

DECISION

Introduction

This hearing dealt with the Tenant's and Landlord's Applications under the *Residential Tenancy Act* (the "Act").

The Tenant applied for:

- cancellation of the Landlord's Two Month Notice to End Tenancy for Landlord's Use of Property (Two Month Notice)
- cancellation of the Landlord's Four Month Notice to End Tenancy Issued for Demolition, or Conversion of Rental Unit to Another Use (Four Month Notice)
- an order regarding the Tenant's dispute of a rent increase by the Landlord
- an order requiring the Landlord to comply with the Act, regulation or tenancy agreement

The Landlord applied for:

- an Order of Possession based on a Two Month Notice to End Tenant for Landlord's Use of Property

The Landlord acknowledged being served with the Tenant's hearing package and evidence sent by registered mail on March 16, 2024. The Tenant acknowledged being served with the Landlord's hearing package sent by registered mail on March 20, 2024. The Landlord confirmed they did not provide any documentary evidence for this dispute.

Preliminary matters

Both parties testified that the Landlord has not issued a written Notice of Rent increase, or made any other written demand for an increase of rent above the amount allowed by the Act. Both parties understand that until a valid Notice of Rent Increase is issued by the Landlord, for an amount allowed by the Act and regulation, the rent will remain at the current amount.

For this reason, the Tenant's application for an order regarding the dispute of a rent increase is dismissed, without leave to reapply.

The Tenant did not provide any testimony or documentary evidence of any breach by the Landlord of the Act, Regulation, or Tenancy agreement.

For this reason, the Tenant's application for an Order for the Landlord to comply with the Act, Regulation, or Tenancy agreement is dismissed, with leave to reapply.

I make no findings on the merits of the matter. Leave to reapply is not an extension of any statutory time limits.

Issues to be decided

Should the Four Month Notice be cancelled? If not, is the Landlord entitled to an Order of Possession?

Should the Two Month Notice be cancelled? If not, is the Landlord entitled to an Order of Possession?

Facts and Analysis

This tenancy began on February 25, 2020, with a monthly rent of \$1200.00 due the first of each month, and with a security deposit of \$650.00.

The Landlord issued a Four Month Notice to the Tenant on February 2, 2024. The stated purpose for ending the tenancy listed on the notice was that the Landlord would convert the rental unit for use by a caretaker, manager, or superintendent.

The Landlord testified that they told the Tenant the real purpose was for the Landlord's daughter to move into the rental unit, but the Landlord wanted to give the Tenant additional time to move out of the rental unit, so they gave a Four Month Notice. This information is not written on or included in the Four Month Notice provided as evidence by the Tenant.

The Landlord issued a Two Month Notice on February 24, 2024. The stated purpose for ending the tenancy on the Two Month Notice was that a child of the Landlord would occupy the rental unit.

The Landlord testified that their daughter would be moving into the rental unit. The Landlord claims their daughter is living in the Landlord's garage with her boyfriend. The Landlord states their daughter wants to move out with her boyfriend. The Landlord has other rental units that their daughter could occupy, but claim they chose this rental unit because the Tenant has paid the rent late, and it is a nice suite.

The Landlord failed to provide any documentary evidence in support of their claims.

The Tenant testified as follows. The Landlord has been verbally requesting rent increases well above the allowed amount under the Act and Regulation from the Tenant and other occupants of the residential property. The Tenant claims the Landlord asked for a rent increase of \$200.00 per month at the start of February 2024.

The Tenant refused to pay the rent increase and reminded the Landlord that there is a limit on how much the rent can increase, and the Landlord has to give a written notice of rent increase. The Tenant claims they received the Four Month Notice to end tenancy the day after this conversation. The Tenant believes the Landlord wants to receive a higher rent for the rental unit, and that the Landlord issued the Four Month and Two Month Notices because the Tenant refused to pay the increased rent.

The Landlord denies verbally requesting a rent increase from the Tenant.

Should the Four Month Notice be cancelled? If not, is the Landlord entitled to an Order of Possession?

Section 49 of the Act says a landlord may issue a four month notice to end tenancy if they plan to convert the rental unit for use by a caretaker, manager, or superintendent.

The Landlord testified that they do not intend to convert the rental unit for this purpose. The Landlord claims they only issued the Four Month Notice to give the Tenant additional time to move out of the rental unit before their daughter occupied the rental unit in accordance with the Two Month Notice.

Therefore, the Tenant's application to cancel the Four Month Notice under section 49 of the Act is granted.

The Four Month Notice dated February 2, 2024, is cancelled, and of no force or effect. This tenancy continues until it is ended in accordance with the Act.

Should the Two Month Notice be cancelled? If not, is the Landlord entitled to an Order of Possession?

Section 49 of the Act states that a landlord may issue a two month notice to end tenancy if the landlord or a close family member is going to occupy the rental unit.

The Tenant disputes that the Notice is being issued in good faith. "Good faith" is a legal concept and means that a party is acting honestly when doing what they say they are going to do, or are required to do, under the Act. The landlord bears the burden to prove on a balance of probabilities that they honestly intend to use the rental unit for the purposes stated on the notice to end tenancy.

Based on the evidence before me, the testimony of the parties, and on a balance of probabilities, I find the Landlord has failed to prove that they have an honest intention of moving their daughter into the rental unit. The Landlord has failed to prove they are acting in good faith to obtain an end to this tenancy.

The Landlord did not provide any documentary evidence to support their claims. The Landlord did not provide any documentary evidence that they have a daughter, that their daughter requires the rental unit to live in, or that their daughter plans to move. The Landlord's testimony was not detailed or specific, and did not convince me that their daughter will move into the rental unit.

I found the Tenant's testimony about the Landlord's attempted verbal rent increases without issues a written notice of rent increase, and the Tenant's recent refusals to pay this increase, convincing and credible. I find the Tenant's low rent payments and the potential for the Landlord to earn more rent for the rental unit in the future is a possible ulterior motive for ending this tenancy.

For the reasons above, the Tenant's application to cancel the Landlord's Two Month Notice under section 49 of the Act is granted. The Landlord's application for an Order of Possession based on the Two Month Notice is dismissed, without leave to reapply.

The Two Month Notice of February 24, 2024, is cancelled and of no force or effect. This tenancy continues until it is ended in accordance with the Act.

Conclusion

The Tenant's applications to cancel the Landlord's Two Month and Four Month Notices are granted. The Landlord's application for an Order of Possession based on a Two Month Notice is dismissed, without leave to reapply.

The Four Month Notice dated February 2, 2024, is cancelled, and of no force or effect. The Two Month Notice of February 24, 2024, is cancelled and of no force or effect.

This tenancy continues until it is ended in accordance with the Act.

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

Dated: May 15, 2024

Residential Tenancy Branch