



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes CNR

Introduction

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is an application to cancel a 10 day Notice to End Tenancy for non-payment of rent.

Background and Evidence

The landlord testified that:

- This is a subsidized rental unit where the tenant's rent is based on the family income.
- They recently did a new income assessment and the tenants current portion of a rent was set at \$785.00 per month which is the same as it had been.
- In December the tenant failed to pay the full rent and there is still \$385.00 outstanding.

- On December 17, 2010 the tenant was served with a 10 day Notice to End Tenancy for non-payment of rent.
- To date the tenant has failed to pay the outstanding rent, and now has failed to pay the January 2011 rent.

The landlord is therefore requesting that the Notice to End Tenancy be upheld and an Order of Possession be issued for as soon as possible.

The tenant testified that:

- He believes he is paying too much for his subsidized housing.
- Due to the fact that he has a special-needs daughter he cannot afford the amount being assessed by the landlords.
- He has extra expenses because of having a special-needs daughter and believes that his subsidy should be greater.

The tenant is therefore requesting that the Notice to End Tenancy be cancelled.

Analysis

The Residential Tenancy Act has no authority over determining the amount of rent paid in a subsidized housing situation.

Section 2 of the Residential Tenancy Regulation states:

2 Rental units operated by the following are exempt from the requirements of sections 34 (2), 41, 42 and 43 of the Act [*assignment and subletting, **rent increases***] if the rent of the units is related to the tenant's income:

- (a) the British Columbia Housing Management Commission;
- (b) the Canada Mortgage and Housing Corporation;
- (c) the City of Vancouver;
- (d) the City of Vancouver Public Housing Corporation;

(e) **Metro Vancouver Housing Corporation;**

(f) the Capital Region Housing Corporation;

Therefore if the Metro Vancouver Housing Corporation has determined that the tenants portion of the rent for this rental unit is \$785.00 per month I have no authority to change that.

Therefore since the tenant has not paid the full \$785.00 for the month of December 2010, I will not set the Notice to End Tenancy aside and at the request of the landlords I have issued an Order of Possession.

Conclusion

This application is dismissed in full without leave to reapply and I have issued an Order of Possession to the landlords that is enforceable two days after service on the tenants.

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: January 17, 2011.

Residential Tenancy Branch