



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes CNL

Introduction

This hearing dealt with an application by the tenant for an order setting aside a notice to end this tenancy. Both parties participated in the conference call hearing.

Issue to be Decided

Should the notice to end tenancy be set aside?

Background and Evidence

The parties agreed that on March 21, 2011 the tenant was served with a two month notice to end tenancy (the "Notice") which purported to end the tenancy on the basis that the tenant no longer qualified for a subsidized rental unit.

The rental unit appears to be a single room with access to common areas which are shared with other tenants. The parties agreed that the tenant has resided in the building for 14 years and that in 2007 it was purchased by BC Housing. BC Housing worked cooperatively with local organizations and created a residence which is (in the words of the landlord) "designed to support individuals with severe mental health and addictions issues." The landlord stated that support systems are in place which the tenant does not require and that there is a long list of people who need access to those support systems. The landlord acknowledged that the tenant does not receive a subsidy and that because he began his residency in the building at a time before support systems were in place, he was "grandfathered" and not required to prove anything as a requirement of his residency.

Analysis

In order to establish grounds to end the tenancy, the landlord must prove that the tenant receives a subsidy and that the tenant no longer qualifies for that subsidy. On the landlord's own evidence, the tenant does not receive a subsidy and I therefore find that

the landlord has failed to prove that she has grounds to end the tenancy. I therefore order that the Notice be set aside. As a result, the tenancy will continue.

Conclusion

The Notice is set aside and is of no force or effect.

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 26, 2011

Residential Tenancy Branch