



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MT, OPR, MNR, FF

Introduction

A substantial amount of documentary evidence, photo 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

Landlords application

This is a request for an Order of Possession based on a Notice to End Tenancy for non-payment of rent, a request for a monetary order for \$1245.00 in unpaid rent, and a request for recovery of the \$50.00 filing fee.

Tenants application

This is a request to cancel a Notice to End Tenancy that was given for non-payment of rent, a request for an extension of time to make an application to dispute a Notice to End Tenancy, and a request to dispute an additional rent increase.

Background and Evidence

The landlords testified that:

- The tenants live in subsidized housing that has a market rent of \$1050.00.
- The amount of subsidy that the tenant gets depends on the family income and the tenants are required to provide proof of income.
- In this case the tenants have failed to provide all the information required in order to receive a subsidy and therefore their subsidy has been denied.
- Therefore since May 2011 they have been required to pay market rent of \$1050.00 per month.
- The tenants have paid a portion of the market rent, however there is still \$415.00 per month outstanding for a total of \$1245.00 to the end of July 2011.
- Since the tenants have not paid the outstanding rent they were served with a Notice to End Tenancy on June 13, 2011.

The landlords are therefore requesting an Order of Possession for July 31, 2011 and request a monetary order for the outstanding rent of \$1245.00 plus the \$50.00 filing fee.

The tenants testified that:

- They did not apply to dispute the Notice to End Tenancy within the time limit required because they were working with the landlords to try and resolve the matter, and they thought everything had been worked out.
- By the time they realize the matter was not resolved they were well past the five day time limit.
- They believe they have supplied all the information required to qualify for a subsidy, and therefore do not believe that they should have to pay any further rent.
- Our subsidy was approved last year, and therefore since nothing has changed our subsidies should be approved this year as well.

- The landlord has been telling us that we have not provided all the information required for the subsidy however we have provided everything they have requested.
- They are now saying that they are still missing my income tax return, however it was virtually the same as last year's with maybe a couple of the hundred dollars difference.

The tenants therefore requested that they be granted an extension of time file a dispute of the Notice to End Tenancy, that the Notice to End Tenancy be cancelled, that the landlord's application be dismissed, and that this tenancy continues.

Analysis

It is my decision that I will grant the extension of time to dispute the Notice to End Tenancy, because the landlord testified that they were working with the tenants at that time to retry and resolve the issues.

I will not however set aside the Notice to End Tenancy, because there is still rent outstanding.

The market rent for this unit is \$1050.00, and the tenants are liable for that full amount of rent, if there is no approved subsidy in place.

The Metro Vancouver Housing Corporation is exempt from the rent increase provisions of the Residential Tenancy Act, and I have no authority to make any determination as to whether or not the tenants qualify for a subsidy. Therefore the landlords are free to raise the rent from the previous subsidized amount, to the market rent.

Therefore it is my finding that this time there is \$1245.00 rent outstanding and I therefore will allow the landlords for request for an Order of Possession, a monetary order, and for recovery of the filing fee

Conclusion

The tenant's application is dismissed in full without leave to reapply.

I have issued an Order of Possession to the landlords for 1 p.m. on July 31, 2011 and I have issued a monetary order to the landlords in the amount of \$1295.00

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: July 26, 2011.

Residential Tenancy Branch