



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI

Introduction

This hearing was convened by way of conference call in response to the tenant's application to cancel an additional rent increase.

The tenant and his Advocate and landlord and their Council attended the conference call hearing. The tenant and landlord gave sworn testimony and were given the opportunity to cross examine each other on their evidence. The landlord and tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. All evidence and testimony of the parties has been reviewed and are considered in this decision.

Issue(s) to be Decided

Is the tenant entitled to dispute an additional rent increase?

Background and Evidence

Both parties agree that this month to month tenancy started on September 01, 2007. The rent for this unit, as documented on the tenancy agreement, is \$845.00 per month; however, the tenant receives subsidized rent and pays a monthly amount of \$365.00. The parties also agree that the landlord requires all of the tenants with subsidized rent to complete an application each year for review of their income to determine if a tenant qualifies for the subsidized rent for the following year.

The tenant testifies that he provided all the information the landlord asked for to qualify for his rent subsidy for 2012. However the tenant states he received a letter from the landlord informing the tenant that he did not provide the correct information and the landlords would not continue with his rent subsidy. The tenant states this letter informs the tenant that his rent would revert to the economic rent of \$845.00 from January, 2012. The tenant states in the application form the landlords asked for his 2011 tax return information and did not ask for information concerning income from his CPP disability. However, in the rejection letter the landlord states the tenant had not provided his 2010 tax return information or information on his disability income.

The landlord testifies it was a typing error when they asked for the tenant's 2011 tax return information and the tenant should have known they meant information from his 2010 tax return. The landlord also argues that the application form asks for information relating to any income of the tenants which would include income from his CCP disability. The landlord states they have not given the tenant a rent increase. They state as the tenant did not provide the correct information in his application his rent subsidy for 2012 has not been allocated and his rent has reverted back to the economic rent as agreed on the tenancy agreement.

The tenant's advocate has asked the landlord for proof of an agreement with British Columbia Housing or one of the other Bodies named in the *Residential Tenancy Act* (*Act*) to show the landlords are exempt from the *Act* in this matter.

Council for the landlord states the landlord provides low cost housing for tenants and the tenant's rent is tied into their income. The foundation carries the subsidized rent and the tenant was aware of this as he has qualified this year for subsidized rent. The landlord testifies that their agreement was with the Canada Mortgage and Housing Corporation but as this mortgage has now expired they continue to provide low cost housing and this does not dismiss them from offering subsidized housing. Council for the landlord states although this building does not have an agreement with any of the named Bodies under the *Act*, for exemption from the *Act*, the landlord states that they

do have agreements in place with their other buildings which would mean the landlords were exempt under the *Act* with regards to matters relating to rent increases. Council for the landlord argues that the Residential Tenancy Branch has no jurisdiction in this matter.

The tenants advocate argues that if the landlord does not have an agreement with either the Government of British Columbia, the British Columbia Housing Management Commission or the Canada Mortgage and Housing Corporation for this building then the tenant has no recourse to ask one of these Bodies how to proceed when the landlord makes a mistake in not allowing the tenant to have a rent subsidy.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties. The tenancy agreement in place between the parties documents that the landlord operates subsidized and low income housing and documents that the tenant's contribution is based on the tenant's income, among other factors. It also goes on to note that the provisions in the *Residential Tenancy Act* relating to changes to the rent do not apply to this tenancy agreement or the landlord. The tenancy agreement notes that the economic rent for this unit is \$845.00.

The landlord has established that they are a charity which has been subsidizing the rent for tenants living in this building since their mortgage ended with the Canadian Mortgage Corporation. The landlord has also established that as a landlord they have agreements with British Columbia Housing to offer subsidized rent for some of their other buildings. The landlord agrees that this building does not have a separate agreement with BC Housing since their Mortgage expired however it must be acknowledged in this decision that the landlord has continued to provide this tenant with a rent subsidy since the start of his tenancy in 2007.

It is therefore my decision that the landlord does offer subsidized housing and as a body has an agreement in place with British Columbia Housing and is therefore exempt from portions of the *Act* as follows:

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;
- g) any housing society or non-profit municipal housing corporation that has an agreement regarding the operation of residential property with the following:
 - I. The government of British Columbia;
 - II. The British Columbia Housing management Commission;
 - III. The Canada mortgage and Housing Corporation.

Consequently, the Residential Tenancy Branch has no jurisdiction over the amount of rent paid at this rental unit. If the tenant wishes to dispute the rent amount the tenant must look to some other form of jurisdiction in this matter.

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

Conclusion

I decline jurisdiction in the matter of the tenant's application to dispute an additional rent increase as the landlord is a charity that receives funding from at least one of the

Organizations detailed in s. 2(g) of the Residential Tenancy Regulations and is therefore exempt from the provisions s. 41, 42 and 43 of 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 *Residential Tenancy Act*.

Dated: December 22, 2011.

Residential Tenancy Branch