



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HABITAT HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR O FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed on August 30, 2013, by the Tenant to cancel a Notice to end tenancy issued for unpaid rent, for other reasons, and to recover the cost of the filing fee from the Landlord for this application.

The parties appeared at the teleconference hearing, acknowledged receipt of evidence submitted by the Tenant and gave affirmed testimony. At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however, each declined and acknowledged that they understood how the conference would proceed.

During the hearing each party was given the opportunity to provide their evidence orally, respond to each other's testimony, and to provide closing remarks. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

1. Was the 10 Day Notice issued August 22, 2013, previously withdrawn?
2. Does the subsidized rent fall within the jurisdiction of the *Residential Tenancy Act*?

Background and Evidence

The parties confirmed they entered into a written tenancy agreement that began on September 1, 2008. Rent is reviewed annually and after the Tenant submits his T4 he completes an application for subsidy listing all occupants of the rental unit and their income.

The Tenant testified that he found the 10 Day Notice jammed into his door when he returned from fishing on August 25, 2013. He argued that he wanted his rent to be reviewed because his income has changed and he did not want to have to be faced with another eviction notice.

The Landlord testified that the 10 Day Notice issued August 22, 2013, had previously been rescinded so they were not proceeding with that eviction. He confirmed that rent was based on a subsidy granted by BC Housing and that they would be willing to discuss the subsidy issues with the Tenant after this proceeding.

Analysis

The 10 Day Notice to end tenancy issued August 22, 2013, had been rescinded by the Landlord prior to this proceeding. Accordingly, I dismiss the Tenant's request to cancel the Notice as it has already been rescinded.

Part 1, Section 2(a) of the *Residential Tenancy Regulation* stipulates that Rental units operated under a subsidy from the British Columbia Housing Management Commission 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.

As per the above, I find the matters pertaining to the amount of rent required under the subsidy granted by BC Housing to be exempt from the Act and therefore, do not fall within this jurisdiction. Accordingly, I declined to hear matters pertaining to the amount of subsidized rent that is required to be paid.

Conclusion

I hereby dismiss the Tenants application.

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: October 10, 2013

Residential Tenancy Branch

