



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes: CNQ OPC

Introduction:

This was an application by the tenant to cancel a two month Notice to End the Tenancy dated February 27, 2015 pursuant to section 49.1 of the Act for not qualifying for a subsidized rental unit. Both parties were present at the hearing.

SERVICE:

I find that the Notice to End a Residential Tenancy was served personally on the tenant on February 27, 2015. The landlord admitted service of the application for dispute resolution.

Issues: Is the tenant entitled to any relief?

Background and Evidence:

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The tenancy began in 2001. The current rent as subsidized is \$417 for a two bedroom unit. The tenant paid a security deposit of \$200 in 2001. The landlord served the Notice to End Tenancy pursuant to section 49.1 of the Act which states:

49.1 (1) In this section:

"public housing body" means a prescribed person or organization;

"subsidized rental unit" means a rental unit that is

(a) operated by a public housing body, or on behalf of a public housing body, and

(b) occupied by a tenant who was required to demonstrate that the tenant, or another proposed occupant, met eligibility criteria related to income, number of occupants, health or other similar criteria before entering into the tenancy agreement in relation to the rental unit.

(2) Subject to section 50 [tenant may end tenancy early] and if provided for in the tenancy agreement, a landlord may end the tenancy of a subsidized rental unit by giving notice to end the tenancy if the tenant or other occupant, as applicable, ceases to qualify for the rental unit.

The witness said their Society is delegated by BC Housing to manage this subsidized housing. Both groups have eligibility criteria that state that persons are not to be over housed, or to only have the number of bedrooms needed for the family members. He said this tenant's daughter moved out some time ago and as she has two bedrooms, she is over housed so they are ending the tenancy. He said the government pays more for two bedrooms and there are many families who are waiting to get them so they end tenancies of persons who have more bedrooms than needed for their family members.

The tenant agreed that her daughter moved out to go to University but claimed there are others like a neighbour who are in a similar situation and are not having their tenancies terminated. She claimed the landlord had ulterior motives. The witness said the neighbour has a special permission letter from BC Housing because of illness and they are ending other tenancies of persons who are no longer eligible. He claimed there was no ulterior motive to end this tenancy. He pointed out that the tenant had given notice to end her tenancy in January and then had rescinded it.

Analysis:

The Notice to End a Residential Tenancy is based on cause pursuant to section 47 of the Act. The Residential Tenancy Act permits a tenant to apply to have the Notice set aside where the tenant disputes it. Although the tenant did dispute this Notice in time, I find the landlord has met the onus of proving on a balance of probabilities that there is cause to end the tenancy under section 49.1 as the tenant no longer qualifies for it. It is undisputed that her daughter has moved out and the tenant is occupying a two bedroom unit as a sole occupant which does not meet the eligibility criteria. I find the landlord was straightforward and forthright in his testimony and I find insufficient evidence that there is any ulterior motive to end this tenant's tenancy.

I therefore dismiss her application to cancel the Notice to End the Tenancy. Section 55(1)(a) provides that the arbitrator must grant an order of possession of the rental unit if the landlord makes an oral request for an order of possession at a hearing where an arbitrator has dismissed the tenant's application pursuant to section 47 and has upheld the Notice. The landlord has made this request at the hearing. As a result I grant the landlord an Order for Possession.

Conclusion:

I dismiss the tenant's application. No filing fee is involved. I grant the landlord an Order for Possession effective April 30, 2015. The tenant must be served with this Order as

soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

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 16, 2015

Residential Tenancy Branch

