



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Kekinow Native Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This was a hearing with respect to an application by the tenant to cancel a one month Notice to End Tenancy for cause. The hearing was conducted by conference call. The tenant and the landlord's representative called in and participated in the hearing.

Issue(s) to be Decided

Should the Notice to End Tenancy dated June 16, 2015 be cancelled?

Background and Evidence

The rental unit is a two bedroom townhouse in the landlord's subsidized housing complex in Surrey. The tenancy began in February 2009. According to the tenancy agreement the occupants of the rental unit are the tenant and her son, who is a minor. Pursuant to the tenancy agreement the tenant's rent is subsidized and is related to her income. It is a term of the subsidy agreement that the tenant will provide verification of household income for all occupants of the rental unit.

The tenancy agreement provides that:

4. a) When the tenant has an additional occupant who will reside with them for any length of time the Tenant must inform the Landlord in writing;
- b) Any additional occupant(s) staying longer than one month (30) days must provide income verification to the Landlord for rent calculation and pay their rent portion to the Landlord; and;
- c) If the tenant does not obtain the necessary approval for their additional occupant(s) from the Landlord, it is considered a breach of a reasonable material term of this tenancy agreement that will result in being served a notice of termination.

The landlord's representative testified that the landlord's maintenance personnel observed the regular presence of a truck and utility trailer in the underground parkade used by a person apparently residing with the tenant. Based on those observations and other reports, the landlord wrote to the tenant on June 3, 2015. In the letter the landlord requested that the additional occupant be reported to the landlord in accordance with the requirements of the tenancy agreement and that income information be provided for the occupant. The tenant denied that there was another person living with her. She said that the visitor was her boyfriend and he was not living with her. The landlord's representative requested that the tenant provide proof of her boyfriend's place of residence so as to establish that he was not an occupant of the rental unit. The tenant refused to provide any information.

Based on the observations by the landlord's employees of regular occupancy of an adult male at the rental unit and based upon the tenant's refusal to provide evidence to establish her boyfriend's place of residence, on June 16, 2015 the landlord served the tenant with a one month Notice to End Tenancy for cause by posting it to the door of the rental unit. The ground for the Notice to End Tenancy was that the tenant breached a material term of the tenancy agreement that was not corrected within a reasonable time after notice to do so. The tenant applied to cancel the Notice to End Tenancy on June 26, 2015.

At the hearing the tenant objected to consideration of the landlord's documentary evidence. She said that she did not receive any evidence from the landlord. The landlord provided confirmation that the evidence was sent to the tenant by registered mail, but the registered mails was not picked up by the tenant. I considered documents supplied by the landlord that the tenant acknowledged, including letters sent to her and the tenancy agreement as well as e-mails and messages exchanged between the parties. At the hearing the tenant objected to the provision of her boyfriend's personal information. She also provided her solemnly affirmed testimony that her boyfriend was not residing with her and that she and her boyfriend have ended their relationship and she no longer has any contact with him.

Analysis

Based on the tenant's testimony that the relationship with her boyfriend has ended and that he is not an occupant of the rental unit, I allow the tenant's application and I order that the Notice to End Tenancy be, and is hereby cancelled. The tenant will continue.

At the hearing I informed the tenant that under the terms of the tenancy agreement the occupants of the rental unit and their incomes is relevant to the rent subsidy granted to the tenant and the landlord is entitled to have this information. If the tenant has a frequent visitor to the rental unit who appears to the landlord to be an occupant, it is not unreasonable for the landlord to require proof from the tenant that such person maintains their own residence and is not an occupant of the rental unit. The tenant's failure or refusal to provide this information in appropriate circumstances may constitute grounds for serving another Notice to End Tenancy for cause.

Conclusion

The tenant's application has been allowed. Not filing fee was paid and none is awarded.

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: August 26, 2015

Residential Tenancy Branch

