



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

Dispute Codes OPQ, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants filed under the Residential Tenancy Act (the “Act”), to cancel 2 Month Notice to End Tenancy because the tenant does not qualify for subsidized rental unit (the “Notice”), issued on July 28, 2015.

Both parties appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Should the Notice issued on July 28, 2015, be cancelled?

Background and Evidence

The landlord’s agent testified that the tenants are required to complete an annual application for rent subsidy. The agent stated that upon review of the tenants’ application for rent subsidy for 2015, they believed the tenants were not been truthful as the female tenant failed to disclose their income and had not declared any income since 2008. The agent stated because of the discrepancies they requested further documents to support their application, which only some of the documents were disclosed.

The landlord’s agent testified that the tenant’s bank statement shows transfer of money between accounts; however, the tenants have failed to provide any of those additional accounts as requested and the money is unaccounted. Filed in evidence are letters requesting disclosure of documents.

The landlord’s agent testified that they have also not received the female tenant’s complete income tax return for 2014 as requested and that they have only received the notice of assessment.

The landlord's agent testified that as a result of the tenants failing to provide the required documents that they have failed to demonstrate that they met the eligibility criteria related to income and they seek to end the tenancy.

The female tenant testified that the bank account information that they have not given to the landlord relates to their business income and is completed by the accountant. The female tenant stated the landlord is not entitled to review those accounts or documents.

The female tenant testified that the landlord has received a copy of their 2014, income tax return.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In this case, I am satisfied that the tenants have had a reasonable amount of time to comply with the request of the landlord for banking information and to provide a complete copy of the female tenant's tax return.

Although the banking information is related to the female tenant's business that they operate, I find the landlord was entitled to review those documents in their entirety to confirm the tenants are not abusing the rent subsidy program, by diverting household expense, as business expense, such a vehicle expense, to reduce their total income declared.

Further, I am satisfied that the female tenant has not provided the landlord with a complete copy of their 2014, income tax as required because in the tenant's own evidence they have only provided page 3 of their 2014 tax return for my review.

Furthermore, upon my review of the documents it appears the female tenant may be attempting to commit fraud. In their 2014, rent subsidy application the female tenant disclosed no income, although their 2014 income tax assessment shows income was earned.

I find the tenants have failed to provide documents as required to support their application for rent subsidy to demonstrate that they met the eligibility criteria related to income.

As a result, I find the Notice issued on July 28, 2015, has been proven by the landlord and is valid. Therefore, I dismiss the tenants' application to cancel the Notice.

As tenants were not successful with their application they are not entitled to recover the filing fee from the landlord.

As the tenants' application is dismissed and the landlord requested an order of possession at the hearing, pursuant to section 55 of the Act, I must grant this request.

Section 55(1) of the Act states:

Order of possession for the landlord

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

As I have dismissed the tenant's application, I find that the Landlord is entitled to an order of possession.

As the landlord has accepted occupancy rent for the month of October 2015, I find it appropriate to extend the effective vacancy date in the Notice to October 31, 2015, pursuant to section 66 of the Act. Therefore, I find the landlord is entitled to an order of possession effective on the above extended vacancy date.

Conclusion

The tenants' application to cancel the Notice, issued on July 28, 2015 is dismissed.

The landlord is granted an order of possession.

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 14, 2015

Residential Tenancy Branch

