



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

Introduction

The hearing was convened in response to the Tenant's Application for Dispute Resolution, in which the Tenant applied to set aside a Two Month Notice to End Tenancy.

The Tenant stated that on June 13, 2016 the Application for Dispute Resolution and the Notice of Hearing were personally served to the Agent for the Landlord. The Agent for the Landlord acknowledged receipt of these documents.

On June 23, 2016 the Tenant submitted two pages of evidence to the Residential Tenancy Branch. The Tenant stated that this evidence was personally served to the Agent for the Landlord on June 14, 2016. The Agent for the Landlord acknowledged receipt of this evidence and it was accepted as evidence for these proceedings.

The Landlord submitted no documentary evidence.

The Landlord and the Tenant were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

Issue(s) to be Decided

Should the Two Month Notice to End Tenancy be set aside?

Background and Evidence

The Agent for the Landlord and the Tenant agree that:

- this tenancy began in 1994;
- the Tenant currently pays subsidized rent;
- the residential complex is, and has always been, designed to provide housing to people living with dependants;
- the Tenant no longer has dependants living with her and has not had dependants living with her for many months;

- the Landlord has not previously served the Tenant with a Two Month Notice to End Tenancy;
- sometime in 2015 the Agent for the Landlord told the Tenant she would need to find alternate accommodations as she no longer qualifies for subsidized rent; and
- on May 25, 2016 a Two Month Notice to End Tenancy Because Tenant Does Not Qualify for Subsidized rental Unit.

The Agent for the Landlord stated that he was unable to locate a copy of a tenancy agreement signed by the Tenant, although he believes she would have signed one at the start of the tenancy. The Tenant stated that she cannot recall if she signed a tenancy agreement at the start of the tenancy and that, if she did, she is no longer in possession of that agreement.

The Tenant stated that she is disputing this Notice to End Tenancy, in part, because she has not found new accommodations that she can afford, although she is on a waiting list for alternate subsidized housing.

The Tenant stated that she is disputing this Notice to End Tenancy, in part, because her grandchildren live nearby and they frequently visit with her at the rental unit.

Analysis

Section 49.2 of the *Act* authorizes a landlord to end a tenancy of a subsidized rental unit if the tenancy agreement stipulates that a landlord may end the tenancy of a subsidized rental unit if the tenant or other occupant to qualify for the rental unit.

I find that the Landlord has submitted insufficient evidence to show that the tenancy agreement stipulates the tenancy may end if the Tenant ceases to qualify for subsidized rent in this residential complex. In reaching this conclusion I was heavily influenced by the fact that a tenancy agreement was not submitted in evidence by either party and I am not, therefore, able to ascertain whether there is such a clause in this tenancy agreement.

As the Landlord has failed to establish grounds to end this tenancy pursuant to section 49.2 of the *Act*, I grant the Tenant's application to set aside this Two Month Notice to End Tenancy.

Conclusion

The Tenant's application to set aside this Two Month Notice to End Tenancy, dated May 25, 2016, is granted. This tenancy shall continue until it is ended in accordance with 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 *Act*.

Dated: July 15, 2016

Residential Tenancy Branch