



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

INTERIM DECISION

Dispute Codes MT, CNQ

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("the *Act*") for more time to make an application to cancel the landlord's 2 Month Notice to End Tenancy Because the Tenant Does not Qualify for Subsidized Rental Unit ("2 Month Notice") pursuant to section 66; and cancellation of the landlord's 2 Month Notice to End Tenancy Because the Tenant Does not Qualify for Subsidized Rental Unit pursuant to section 49.1.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, and to make submissions. The landlord acknowledged receipt of the tenant's Application for Dispute Resolution and evidence package. The tenant acknowledged receipt of the landlord's evidence package. The tenant was represented by a lawyer.

Preliminary Issue: More Time for Tenant to Apply

Section 66(1) and section 66(3) of the *Act* state that an arbitrator may extend a time limit only in exceptional circumstances and that the time limit cannot be extended beyond the effective date of a notice to end tenancy. The landlord's undisputed evidence at this hearing was that the tenant was served by posting the 2 Month Notice to End Tenancy ("2 Month Notice") on the tenant's door on December 21, 2016. The effective date of the 2 Month Notice was February 28, 2017.

The tenant provided reasons for the delay of her filing to dispute the landlord's 2 Month Notice. She testified that, during the time that she received the 2 Month Notice, she was attempting to address a variety of personal issues from a death in the family, domestic violence victimization and unexpected health concerns. The extreme confluence of circumstances for the tenant at the time of the issuance of this notice can only be described as exceptional. Prior to the receipt of this notice to end tenancy, the tenant

was struggling to remove a violent partner from her home. Very shortly after the issuance of this notice, her sister died. Within this period of time, she faced health issues and difficulties in caring for her children. In all of the circumstances, I find that it is appropriate to extend the time limit and allow the tenant to proceed with her application to cancel the 2 Month Notice.

Preliminary Matters: Adjournment of Hearing

Pursuant to Dispute Resolution Rules of Procedure Rule No. 7.8, at “any time after the dispute resolution proceeding commences, the arbitrator may adjourn the dispute resolution proceeding to another time.” This adjournment may arise from the request of a party or on the arbitrator’s own initiative. I ultimately adjourned this matter for a new hearing date pursuant to the Dispute Resolution Rules of Procedure.

After hearing evidence from the tenant and submissions from her lawyer, I was not satisfied that the evidence of either party was sufficient to allow me to make a decision with respect to the application before me. The tenant and landlord both made assertions regarding the tenant’s subsidy that they were unable to support with documentary evidence. Given the gravity of the subject matter of this application (whether this tenancy will continue) as well as the reliance of both parties on undocumented information to address the primary issue of subsidy, I find that an adjournment for each party to provide further information is necessary.

I have determined that an adjournment of this matter is required to provide a fair and efficient hearing of this matter. I advised both the tenant and the landlord at the hearing that only specific evidentiary submissions will be accepted for the purposes of the reconvened hearing.

The landlord is entitled to submit any documentary evidence directly related to his claim that the tenant is no longer eligible for subsidy: the landlord may provide correspondence sent to him by the appropriate government ministry. The tenant is entitled to submit any documentary evidence directly supporting her testimony that the subsidy remains in place. As well, the tenant is required to provide documentary evidence to prove the date that her children will be returned to her custody.

Conclusion

I Order that this hearing be reconvened on March 17, 2017 at 10.00 am. **Notices of hearing are included with this Interim Decision for each party.**

For more information see our website at:

www.gov.bc.ca/landlordtenant/

If either party has any questions they may contact an Information Officer with the Residential Tenancy Branch at:

Lower Mainland: 604-660-1020

Elsewhere in BC: 1-800-665-8779

Both parties are also ordered to provide the Branch with copies of all documentary evidence on which the parties intend to rely. For their part, both parties should ensure that they supply their evidence to the other party and to the Branch in accordance with Rule 4 of the Branch Rules of Procedure.

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: March 13, 2017

Residential Tenancy Branch