



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Metro Vancouver Housing Corporation
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

Tenants' Application made August 2, 2107: CNQ

Landlord's Application made August 18, 2017: OPQ

Introduction

These are cross-Applications for Dispute Resolution. The Tenants seek to cancel a 2 Month Notice to End Tenancy Because the Tenant does Not Qualify for Subsidized Rental Unit, issued July 19, 2017 (the "Notice").

The Landlord seeks an Order of Possession with respect to the Notice.

This matter was convened on October 25, 2017, and adjourned to November 6, 2017. An Interim Decision was provided on October 27, 2017, which should be read in conjunction with this Decision.

Both parties attended on both dates and gave affirmed testimony.

It was determined that the Landlord mailed the Notice of Hearing documents and copies of its documentary evidence to each of the Tenants, by registered mail, sent August 29, 2017. It was also determined that the Tenants served the Landlord with their documentary evidence on October 12, 2017.

At the October 25, 2017, Hearing, I ordered the Landlord to provide the Residential Tenancy Branch and the Tenants with a copy of the Rental Assistance Application which was completed by the Tenants on June 29, 2017. The Landlord provided a copy to the Residential Tenancy Branch and served the Tenant with their copy on October 25, 2017.

Issue to be Determined

Is the Notice a valid notice to end the tenancy?

Background and Evidence

A copy of the tenancy agreement was provided in evidence. This tenancy began on October 1, 2015. The Landlord is a public housing body as defined in the Act. Rent is subsidized, based on the Tenants' income. Tenants cease to qualify for subsidy if 30% of their combined income equals to, or is less than, 90% of market rent. There is also a minimum amount of rent that must be paid. Clause 8 of the tenancy agreement provides:

"The Tenant must provide the Landlord with an Income Verification at least once a year on request from the Landlord, or as soon as practicable when there is a change in either:

- (i) the annual income of the Tenant and any Occupants over the age of 18; or
- (ii) the composition of the household."

The tenancy agreement also includes the following clause:

"The Landlord may end the tenancy with two months' notice if the Tenant or other Occupant ceases to qualify for the Rental Unit."

Market rent for the rental unit at the beginning of the tenancy was \$1,387.00. The Tenants' rent was subsidized for the first year of the tenancy in the amount of \$657.00, and therefore the Tenants paid \$730.00 per month.

In October, 2016, market rent was \$1,427.00 for the rental unit. The Tenants completed a Rent Assistance Application and based on the information provided, the Tenants' rent was subsidized in the amount of \$787.00 per month. Therefore the Tenants' rent effective October 1, 2016, was \$640.00 per month.

On May 29, 2017, the Landlord gave the Tenants written notice requesting the Tenants to complete and submit a Rent Assistance Application by June 28, 2017 for the next rental year. The Tenants completed and submitted the Application on June 29, 2017.

The Landlords had questions about the Application and invited the Tenants to meet with staff on July 19, 2017 to review the Tenants' Application. The Tenant DC went to the meeting, but the Tenant AL did not go to the meeting because she was training for a new job.

The Landlord's agents gave the following testimony:

The Landlord's agents testified that the Rent Assistance Application provided by the Tenants was incomplete because not all proof-of-income documents were provided. They submitted that there was not enough information to calculate the Tenants' annual income. For example, no pay stubs, receipts, or invoices were provided to prove the Tenants' income. The Tenants

declared a total of \$910.00 per month income (\$450.00 for DC and \$460.00 for AL), but the Landlord calculated that their monthly expenses totalled \$1,254.00. Because of this discrepancy and the lack of supporting documentation from the Tenants, the Landlord requested a meeting with the Tenants.

The Landlords' agents testified that the Landlord requires 3 consecutive pay stubs for proof of tenants' incomes, and/or receipts/invoices for self-employed tenants. They stated that none of these documents were provided. The Landlords' agents stated that they had a similar problem when the Tenants applied for rent assistance the previous year, and that they are required by "affordable housing" to be able to audit income claimed by tenants. Therefore, because the Tenants' self-employment varies from month-to-month, the Landlord needs proof for who they work for, and when. The Landlords' agents testified that when they asked DC questions about the Tenants' income, she got upset and left the meeting.

The Landlords issued the Notice and served the Tenants on July 19, 2017, after the meeting.

The Tenants gave the following testimony:

AL testified that she used to work for a fast food restaurant, but her employment ended on January 31, 2017. AL stated that she told the Landlord about it.

AL testified that she began training as a traffic flag person in June, 2017 and that she was hired for a position in "July or August". She stated that she "didn't clarify the date" of her new employment when she completed the Rent Assistance Application, because she was not sure if she would be kept on.

Both of the Tenants worked as house cleaners for various private residences. The Tenants provided handwritten notes, indicating the months and amounts they earned each month.

DC stated that she is "not self-employed" because she pays no tax on the amounts she earns from house cleaning.

Analysis

The Rent Assistance Application clearly indicates that the applicants (in this case, the Tenants) must provide a copy of their Income Tax Returns and Notice of Assessment from Revenue Canada. These documents were provided by the Tenants, and indicate that the Tenants' net income for 2016 was:

DC	\$5,345.51
AL	<u>\$8,384.00</u>
	\$13,729.51

The Tenants also provided copies of their bank statements with their Application, as follows:

DL	March 18 – April 17, 2017
	May 18 – June 17, 2017
AL	Savings account, June 26, 2017
	Chequing account June 26, 2017

I find that these statements do not provide sufficient details to be of any use to the Landlord with respect to its ability to audit the Tenants' income. In addition, the Tenants claimed a total monthly income of only \$910.00 on their Rent Assistance Application. Their previous year's combined monthly income claimed was \$1,144.13 (\$13,729.51 / 12 months).

The Tenants provided further documentation in their evidence package dated October 12, 2017; however, these documents were for a time period after the Rent Assistance

Application was submitted. For example, the Tenant AL provided a "financial enquiry" that indicated that she was paid \$853.17 on September 1, 2017 and \$812.45 on September 15, 2017, for her traffic job. She did not provide statements for June, July, or August, 2017, which would indicate what her income was for those months.

DC provided a handwritten note setting out the months of the year and the amounts she collected for "cleaning" in 2016. No documents were provided with respect to monies earned from "cleaning" for 2017. I find that this does not meet the criteria of being either a receipt or an invoice. No names, addresses, or specific dates are on the handwritten document for the Landlord to be able to audit. I do not accept DC's submission that she was not self-employed because she didn't pay taxes on income earned by house cleaning.

AL provided a handwritten note for the months of April, May, and June, 2017, and the amounts she collected for "work". I find that this does not meet the criteria of being either a receipt or an invoice. No names, addresses, or specific dates are on the handwritten document for the Landlord to be able to audit.

Based on the documentary evidence provided and the oral testimony of the Tenants, I find that they did not provide sufficient evidence that they qualify for assistance under the tenancy agreement.

The Tenants' Application to cancel the Notice is dismissed.

The Landlord's Application for an Order of Possession is granted. I find that the Notice is effective September 30, 2017, and that the Landlord is entitled to an immediate Order of Possession; however, the Landlord's agents asked that the Order be effective December 1, 2017.

Conclusion

I hereby provide the Landlord with an Order of Possession **effective December 1, 2017**. This Order must be served on the Tenants and may be enforced in the Supreme Court of British Columbia.

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: November 8, 2017

Residential Tenancy Branch