



Dispute Resolution Services

Page: 1

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 CNQ

Introduction

This hearing dealt with an application by the tenant under the Residential Tenancy Act (the *Act*) for the following:

- Cancellation of a Two Month Notice to End Tenancy Because the Tenant Does Not Qualify for Subsidized Rental Unit (“Two Month Notice”) pursuant to section 49.1.

The tenant MF and advocate PJ appeared for the tenants (“the tenants”). LJ, JK and XD appeared as agents for the landlord (“the landlord”).

The landlord acknowledged receipt of the Notice of Hearing and the tenants’ documents. The tenants acknowledged receipt of the landlord’s materials. No issues of service were raised.

Both parties were given full opportunity to provide affirmed testimony, present evidence, cross examine the other party and make submissions.

Section 55 of the *Act* requires, when a tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a landlord, I must consider if the landlord is entitled to an order of possession if the Application is dismissed and the landlord has issued a notice to end tenancy in compliance with the *Act*.

The landlord stated no order of possession was requested. The landlord testified the landlord’s intention on issuance of the Two Month Notice was to eliminate the present subsidy for the tenants and to change the monthly rent to the rental rent to a non-

subsidized rate to be determined by the landlord after consideration of evidence of the tenants' financial information.

Issue(s) to be Decided

Are the tenants entitled to cancellation of a Two Month Notice to End Tenancy Because the Tenant Does Not Qualify for Subsidized Rental Unit ("Two Month Notice") pursuant to section 49.1?

Background and Evidence

The parties agreed on the following:

- The tenants (father and adult son) and the landlord entered a month-to-month tenancy agreement on October 14, 2016 to rent a two-bedroom rental unit;
- The unit's market rental rate is \$1,159.00 a month;
- The tenants current subsidized rent is \$615.00 a month;
- The landlord requires annual financial information from all occupants of the rental unit to determine ongoing eligibility for the subsidized rent rate;
- The tenant HF (adult son) failed to submit sufficient financial information despite repeated warnings from the landlord;
- The tenant MF has submitted adequate financial information to the landlord and is entitled to subsidized rent;
- The tenant HF does not reside regularly in the unit and is believed by the landlord to live elsewhere;
- The landlord issued the Two Month Notice dated June 18, 2018 stating, "The tenant no longer qualifies for the subsidized rental unit";
- The landlord posted the Two Month Notice to the door of the rental unit on June 18, 2018;
- The parties acknowledged the Two Month Notice was served upon the tenants three days after posting, June 21, 2018, pursuant to section 90;
- The tenants filed an Application for Dispute Resolution on June 25, 2018;
- The landlord offered to rent a one-bedroom unit to the tenant MF.

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties do so during the dispute resolution proceedings, the settlement may be recorded in the form of a Decision or an Order.

During the hearing, the parties discussed the issues between them, turned their minds to compromise, and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues currently under dispute:

- The tenants will vacate the rental unit on September 30, 2018;
- The tenants will pay the current subsidized rent until September 30, 2018;
- The landlord will be granted an order of possession effective September 30, 2018 in the event the tenants do not vacate the unit;
- The tenant MF and the landlord will enter into a new residential tenancy agreement for a 1-bedroom rental unit commencing October 1, 2018 on a subsidized basis at a rent to be determined by the parties;
- These terms comprise the full and final settlement of all aspects of this dispute for both parties.

Both parties testified they understood and agreed the above terms are final, binding, and enforceable and settle all aspects of this dispute.

Conclusion

Based on the above, I accept that all matters between these parties raised in this application are resolved.

An order of possession is granted to the landlord dated September 30, 2018.

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: September 6, 2018

Residential Tenancy Branch