



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SEMIAHMOO HOUSE SOCIETY and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNQ, RP, FF

Introduction

This hearing dealt with the tenant's application for dispute resolution, seeking to cancel a two month notice to end tenancy, issued by the landlord given on the ground that the tenant does not qualify for subsidized housing. The tenant also applied for an order directing the landlord to carry out repairs and for the recovery of the filing fee.

Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord was represented by their agent. The tenant represented herself and was accompanied by son who is also a tenant. As both parties were in attendance, I confirmed service of documents. The parties confirmed receipt of each other's evidence. I find that the parties were served with evidentiary materials in accordance with sections 88 and 89 of the *Act*.

RTB Rules of Procedure 2.3 states that if in the course of a dispute resolution proceeding, the Arbitrator determines that it is appropriate to do so, the Arbitrator may dismiss unrelated disputes contained in a single application with or without leave to reapply.

In this regard I find the landlord has applied for an order directing the landlord to carry out repairs. Since this section of the tenant's application is unrelated to the main section which is to cancel the notice to end tenancy, I dismiss this section of the tenant's claim with leave to reapply. Accordingly this hearing only dealt with the tenant's application to set aside the notice to end tenancy.

Issue(s) to be Decided

Should the notice to end tenancy, given on the ground that the tenant does not qualify for a subsidized rental unit, be cancelled?

Background and Evidence

The rental unit is a three-bedroom apartment in the landlord's housing complex. The rental property provides subsidized housing to families. The tenancy began in January 1996. The tenant lived in the rental unit with her two children until recently when one of her now adult children moved out.

The landlord stated that since the occupants of the three-bedroom rental unit consists of two adults, the tenant does not qualify for subsidized housing in the three-bedroom unit. The landlord testified that the tenant was offered alternative accommodation that she declined.

On October 09, 2019 the landlord served the tenant with a two month notice to end tenancy effective February 29, 2020. The landlord agreed to do her best to find alternative accommodation for the tenant and her son. The tenant agreed to accept alternative accommodation when it became available. However, the landlord cautioned the tenant that there was no guarantee that alternative accommodation would be available by the effective date of the notice to end tenancy.

Analysis

The tenant agrees that she no longer qualifies for a three-bedroom rental unit. Based on the testimony of both parties, I find that the notice to end tenancy is valid as there are only two adults living in the rental unit and that the three-bedroom unit is required for another family. Therefore, I find that the notice to end tenancy should not be cancelled and the tenant's application is therefore dismissed without leave to reapply.

Section 55 of the *Residential Tenancy Act* provides as follows:

- 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.

I have dismissed the tenant's application to dispute the landlord's notice to end tenancy. The landlord made an oral request for an order of possession at the hearing. Pursuant to section 55 I grant the landlord an order for possession effective February 29, 2020. This order may be registered in the Supreme Court and enforced as an order of that court.

Since the tenant is not successful in her application, she must bear the cost of filing it.

Conclusion

The tenant's application has been dismissed and the landlord has been granted an order for possession effective by 1:00pm on February 29, 2020.

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 22, 2019

Residential Tenancy Branch