



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes CNL

Introduction

On July 8, 2020, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* ("the Act") seeking to cancel a Two Month Notice to End Tenancy because the Tenant Does Not Qualify for Subsidized Rental Unit dated June 25, 2020, ("the Two Month Notice").

The matter was set for a teleconference hearing. The Landlord and Tenant appeared at the hearing. The hearing process was explained, and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form and make submissions to me. Both parties confirmed that they have exchanged the documentary evidence that I have before me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

- Does the Landlord have sufficient reason to end the tenancy?

Background and Evidence

Both parties testified that the tenancy began on February 1, 2019 and is on a month to month basis. Rent is geared to income. Current subsidized rent in the amount of \$654.00 is due to be paid to the Landlord by the first day of each month. The Tenant paid the Landlord a security deposit of \$485.50. Both parties agreed that the tenancy agreement provides that rent will be determined to be 30% of the Tenants income.

The Landlord provided a copy of the tenancy agreement. The tenancy agreement contains a term regarding the eligibility and disclosure for rent subsidy. The term provides that the Tenant agrees to promptly provide the Landlord with information and documentation as requested by the Landlord regarding the Tenant and occupants to determine applicable rent contribution. Failure to disclose information requested may result in non-compliance and ineligibility to occupy a subsidized housing unit.

The Landlord testified that it was noticed that the Tenant had another occupant living in the rental unit. The Landlord testified that information about this situation was requested from the Tenant and the Tenant refused to provide it to the Landlord. The Landlord stated that mail addressed to the Tenant was received at the dispute address.

The Landlord served the Two Month Notice to the Tenant on June 25, 2020. The Landlord selected the following reason for ending the tenancy within the Two Month Notice:

The tenant no longer qualifies for the subsidized rental unit.

The Two Month Notice provides information for Tenants who receive the Notice. The Notice states that a Tenant has the right to dispute the Notice within 15 days after receiving it by filing an Application for Dispute Resolution at the Residential Tenancy Branch. The Tenant disputed the Two Month Notice on July 8, 2020, within the required time frame.

The Landlord testified that it was only after the Two Month Notice was issued that the Tenant provided the Landlord information stating that the person observed in his unit is only a guest.

The Landlord submitted that the Tenant's guest remains living in the rental unit and the Landlord wants to enforce the Two Month Notice and end the tenancy. The Landlord submitted that the Tenant does not qualify for the rental unit and that due to a failure to disclose information the Landlord cannot determine eligibility.

In response to the Landlords' testimony, the Tenants advocate submitted that the Tenants guest is no longer living in the rental unit. She submitted that the Tenant spoke to the property manager and explained that the Tenant's guest was staying in the unit due to death of her husband.

The Tenants advocate submitted that the Tenant was informed by the Landlord that his guest could not be added to the tenancy agreement as an occupant, because of the size of the rental unit.

The Tenant testified that his guest only lived in the unit for one month and has been living elsewhere since April 2020. He testified that his guest visits him daily. He testified that his guest is a close friend of his for the past 9 years. He testified that he has health issues and his guests assists him. He testified that the mail in his guests name was for school supplies that she ordered online for the Tenant and the Tenant's child.

The Tenant testified that he provided the Landlord with information about his guest. He testified that he provided BCid, and identity card, and an income tax return showing the address where she currently lives. He testified that she is living with her grandparents since April 2020. The Tenant provided a copy of his guests identification showing her address.

In response, the Landlord testified that she never received a copy of a tax return.

Analysis

Section 49.1 of the Act provides that a Landlord may end the tenancy of a subsidized rental unit by giving notice to end the tenancy if the Tenant or other occupant, as applicable, ceases to qualify for the rental unit.

In the matter before me, the Landlord has the onus to prove that the reason for ending the tenancy is valid and sufficient. Based on the evidence and testimony before me, I make the following findings:

I have reviewed the tenancy agreement and I find that for the purpose of determining the rent subsidy, the Tenant agreed to provide the Landlord with information and documentation as requested by the Landlord regarding the Tenant and occupants to determine applicable rent contribution and eligibility.

I have considered whether or not the Tenant has breached a fundamental term of the tenancy agreement by failing to provide information requested by the Landlord. The Tenant admitted that his guest lived with him for a period of a month. I find that the Tenant provided the Landlord with evidence that his guest now resides elsewhere. With respect to the Landlords submission that the information was only provided after the Two Month Notice was issued, I find that the documentary evidence provided by the

parties shows that the Tenant did not refuse to provide any information. The Tenant responded to the Landlord in March 2020 stating that his guest was staying with him temporarily.

I find that the Tenant has a right under the Act to have guests visit him as often as he likes. I note that the tenancy agreement provides that guests may stay for 21 days, or longer with written permission.

I find that there is insufficient evidence from the Landlord to establish that the Tenant has an unauthorized person living in the rental unit.

The Tenant's application to cancel the Two Month Notice is successful. The Two Month notice is cancelled. The tenancy will continue until ended in accordance with the Act.

Conclusion

I find that there is insufficient evidence from the Landlord to prove that the Tenant has an unauthorized person living with him in the rental unit.

The Tenant's application to cancel the Two Month Notice to End Tenancy dated June 25, 2020, is successful. The Two Month Notice is cancelled.

The tenancy will continue until 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 *Residential Tenancy Act*.

Dated: August 18, 2020

Residential Tenancy Branch