Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, FF

Introduction

This was a hearing with respect to an application by the tenant, said to be an application to dispute a rent increase. The hearing was conducted by conference call. The tenant called in and participated in the hearing. The landlord did not attend although he was personally served with the application for dispute resolution and Notice of Hearing on June 29, 2014.

Issue(s) to be Decided

Is the tenant entitled to a remedy as claimed in her application?

Background and Evidence

The tenant testified that the rental unit is a duplex in Chilliwack. It consists of an upper and lower suite. She has rented the whole of the duplex since in or about 1994 and has occupied the upper unit and sublet the lower unit throughout her tenancy. The tenant testified that the landlord purchased the property approximately 10 years ago, subject to her existing tenancy. She said that she signed a new tenancy agreement with the landlord at that time. The landlord promised to give her a copy of the tenancy agreement, but thus far he has not done so,

The tenant testified that the landlord has told her that he needs to raise the rent for the rental property. The landlord told her that he intends to deal directly with her sub-tenant and raid the rent for lower unit by $300.00 and to collect the rent directly from the sub-tenant. The tenant submitted a copy letter from the landlord dated June 13, 2014, telling her that she must install a railing on steps going up to the hot tub and advising her that:

2/ also there is no sub-letting so please advise the tenant downstairs he must vacate the premises by June 30th 2014 and you must give notification of such to your landlord in writing within 10 days of this notice. If you do not comply with this notification further action will be taken.

The landlord has not filed any documentary evidence in response to the tenant's application and he did not attend the hearing.

Analysis

The landlord has not given any form of Notice of Rent Increase or any Notice to End Tenancy that is recognized or enforceable under the *Residential Tenancy Act*. With respect to the landlord's letter advising that there is no subletting, I refer the parties to the provisions of section 34 of the *Residential Tenancy Act*:

Assignment and subletting

34 (1) Unless the landlord consents in writing, a tenant must not assign a tenancy agreement or sublet a rental unit.

(2) If a fixed term tenancy agreement is for 6 months or more, the landlord must not unreasonably withhold the consent required under subsection (1).

(3) A landlord must not charge a tenant anything for considering, investigating or consenting to an assignment or sublease under this section.

According to the tenant, she was subletting the lower suite when the landlord purchased the rental property. If that is the case and the landlord has acquiesced to this arrangement since then, it is unlikely that he will have convincing reasons for now objecting to the subletting. In any event, the letter to the tenant is not an enforceable request and until such time as the landlord serves a form of Notice to End Tenancy that complies with the provisions of the *Residential Tenancy Act*, the tenant may ignore the landlord's demand to end the sub-tenancy.

Conclusion

There is no valid notice of rent increase to be disputed on the application and therefore I make no findings on the tenant's application, other than as stated. Because the application was unnecessary, I make no order with respect to payment of the filing fee.

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 21, 2014

Residential Tenancy Branch