

**IN THE SMALL CLAIMS COURT OF NOVA SCOTIA
ON APPEAL FROM AN ORDER OF THE
DIRECTOR OF RESIDENTIAL TENANCIES**

Cite as: L.D. v. Metropolitan Regional Housing Authority,
2017 NSSM 73

BETWEEN:

L.D.

Tenant (Appellant)

- and -

METROPOLITAN REGIONAL HOUSING AUTHORITY

Landlord (Respondent)

REASONS FOR DECISION AND ORDER

BEFORE

Eric K. Slone, Adjudicator

Hearing held at Halifax, Nova Scotia on December 5, 2017

Decision rendered on December 6, 2017

APPEARANCES

For the Tenant	Meghan Deveaux Dalhousie Legal Aid
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For the Landlord	Erin Cain Counsel
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REASONS FOR DECISION AND ORDER

[1] This is an appeal by the Tenant from a decision of the Director of Residential Tenancies dated October 18, 2017, which ordered the Tenant to vacate her apartment at [redacted], Halifax as of November 30, 2017.

[2] The basis of the Landlord's application, and the reason for the ordered termination of the lease, was because of an alleged failure by the Tenant to comply with her various obligations to provide income and other information to support her subsidized rent. Metropolitan Regional Housing Authority ("the Housing Authority") is a quasi-governmental entity that owns buildings and administers leases involving several thousand housing units in the Halifax area. The rents paid by Tenants, such as Ms. D., are low in relation to market rents. In order to continue to qualify for those subsidized rents, tenants have regulatory as well as contractual obligations to continue to justify their need for such assistance.

[3] Ms. D. has been a tenant in the subject apartment for approximately 10 years. Prior to that time, she was also in a subsidized housing unit.

[4] Prior to about 2015, there appeared to be no particular difficulty with the information being supplied by Ms. D. However, from 2015 onward, it appears that there has been a problem. Although Ms. D. denies any failure to provide information, I am willing to accept the evidence of the Housing Authority's witnesses to the effect that Ms. D. has been erratic, at best, and totally delinquent, at worst, in providing information.

[5] The Residential Tenancy Officer did not have the benefit of hearing from Ms. D. She missed the hearing, which I believe was an honest error on her part. As such, the Residential Tenancy Officer grappled with the question of what type of remedy ought to be awarded to the Housing Authority for what appeared to be deliberate failures to provide supporting information. The Residential Tenancy Officer determined that nothing short of termination of the lease would be sufficient as a remedy. While not phrased specifically as such, the underlying premise of the order was deterrence; i.e. tenants must be made aware generally that a failure to provide such information could place their tenancies in jeopardy.

[6] Perhaps a deterrence remedy would be appropriate in the case of someone who was deliberately flaunting the obligation to support their tenancy. Ms. D. is not such an individual, in my opinion.

[7] She testified that she has been suffering from mental difficulties for the last few years. She produced a letter from a psychiatric social worker, which partly supports that fact. Perhaps more potently, her very presentation at the hearing before me demonstrated with no room for doubt, that she is someone who is in a poor state. Her ability to provide coherent testimony or documentation was clearly compromised. I do not know, nor do I need to know, the full extent of her psychiatric problems. Suffice it to say that I am satisfied that her failure to provide the information to the Housing Authority was very likely a function of her mental ability.

[8] I do not overlook the need for the Housing Authority to receive information to support Ms. D.'s subsidized housing. As the Housing Authority's witnesses testified, there are hundreds upon hundreds of families awaiting

placement, and if Ms. D. were occupying a space to which she is not entitled, it would be grossly unfair to all of those other people.

[9] As such, in my order overturning the order of the Director of Residential Tenancies, I am placing some conditions.

[10] We are almost at the end of 2017. It is typical that information is provided for the prior year. This makes sense, as one cannot usually provide income tax information such as a Notice of Assessment until about midway through the following year. Accordingly, it would be 2016 information that Ms. D. is currently obligated to provide. She claims to have supplied this information, but I am far from satisfied that she has. Accordingly, I am directing that the Housing Authority provide a letter to Ms. D. as soon as possible, indicating the specific documents for 2016 that are required. Ms. D. will provide those documents within 30 days of the request, whether or not she believes she has provided them already. In other words, we are starting fresh, but only from 2016 on.

[11] It is also expected, in fact required, that Ms. D. obtain the help of an intermediary to satisfy the documentary requests from the Housing Authority. It appears that she has enlisted the help of a trustee, Mr. Donnie Bennett of Halifax Housing Help, who is now attending to the payment of her rent and other bills. If possible, Mr. Bennett or someone else from his organization should assist Ms. Desmond in answering the requests for information from the Housing Authority.

[12] On a go forward basis, the same procedure will apply. The Housing Authority, sometime in 2018 within its usual parameters, shall send a letter to Ms. D. advising of the specific documents that it requires pertinent to the year

2017. Once again, Ms. D. shall provide such information within 30 days, with the help of an intermediary, if possible.

[13] The Housing Authority must understand that Ms. D. is suffering from a form of a disability, to a greater or lesser extent, which entitles her to reasonable accommodation (no pun intended) in a human rights sense. In other words, they should treat her more like the already treat other tenants who have cognitive problems such as dementia. I am not suggesting that Ms. D. has dementia, but only that she appears, at least for the time being, not to be cognitively capable of meeting her obligations to support her subsidized housing. As such, she is to be helped as much as possible by all relevant authorities including the Housing Authority.

[14] It is my hope that Ms. D. can be made to understand that she is in a privileged situation that does require her cooperation. I think she does understand this, but it needs to be reinforced. The Housing Authority has to meet her halfway, which is what reasonable accommodation means. However, if the inability to obtain information persists for any further length of time, she is in jeopardy of losing her apartment.

[15] In the end, subject to all of the conditions set out above, the order of the Director of Residential Tenancies is hereby vacated.

Eric K. Slone, Adjudicator