

Tenants Application in respect of 150 Finch Avenue West

Date:	September 11, 2007
To:	Tenant Defence Sub-Committee
From:	City Solicitor
Wards:	All
Reference Number:	

SUMMARY

The purpose of this report is to respond to a request by the Tenant Defence Sub-Committee for an opinion with respect to whether or not there are any avenues to help the tenants' group at 150 Finch Avenue West.

It does not appear that a grant is likely to be of any assistance to these tenants, given that the time limits for further legal actions have passed. Unfortunately, there do not appear to be any further avenues available for assisting the tenants of 150 Finch Avenue West in relation to their application to the Ontario Rental Housing Tribunal.

FINANCIAL IMPACT

There are no financial implications to the City of Toronto as a result of this report.

DECISION HISTORY

At its meeting on January 6, 2006, the Tenant Defence Fund Sub-Committee received a report from the General Manager, Shelter, Support and Housing Administration Division on staff's review of the application by one of the tenants at 150 Finch Avenue West. At the time of receiving that report, the Tenant Defence Fund Sub-Committee requested:

“that the City Solicitor to provide an in-camera report to the Tenant Defence Sub-Committee on whether or not there are any avenues, legal or otherwise, to help the tenants group at 150 Finch Avenue West, having regard that the tenants intend to appeal in Small Claims Court.”

The report from the General Manager, Shelter, Support and Housing Administration Division can be viewed by following this link:

<http://www.toronto.ca/legdocs/2006/agendas/committees/td/td060106/it006.pdf>

ISSUE BACKGROUND

The tenant who brought this matter to the attention of Councillor Jenkins applied to the Ontario Rental Housing Tribunal (the “Tribunal”) on March 31, 2004, for an order determining that the landlord had given the notice in bad faith and collected money illegally. The tenant’s application was heard on April 27, 2004 and the Tribunal issued its order on May 28, 2004. The Tribunal dismissed the case for the reason that the Tribunal did not have jurisdiction to adjudicate the matter because the alleged misconduct occurred on January 31, 2003, which was more than one year prior to the date the tenant filed the application.

Even if it could be argued that the Tribunal erred in this finding, the time limit for appealing the order is 30 days. Therefore, notice of appeal would have had to be filed by June 27, 2004. Further, even if the actions of the landlord constitute an offence under the Act, any proceedings with respect to the offence would have had to be commenced within two years of the occurrence of the offence.

It has now been over 4 years and 7 months since the landlord gave the tenants the notice of termination and over 4 years and 5 months since the tenants vacated the building. It has been over 3 years and 3 months since the Tribunal issued its order in respect to the application.

In its request for this further report, the Tenant Defence Sub-Committee indicated that the tenants intended to appeal to the Small Claims Court.

COMMENTS

Staff have again reviewed the tenant’s summary of events and the relevant provisions in the Tenant Protection Act (the “Act”). Based on the information provided, the timeline of events and the relevant sections of the Act, it appears that there is no further recourse for the tenants with respect to this matter.

The Small Claims Court does not have jurisdiction to hear an appeal of an order of the Tribunal. Under the Act, if the tenant objects to the order and wishes to take further action, two options are available. One option is to request a review of the order by the Tribunal. The second option is to appeal the order to the Divisional Court. Both a request for a review and a notice to appeal must be made within 30 days of the order being issued. In this case, the order was issued over 3 years ago, on April 27, 2004. The Act does allow the Tribunal to consider a request to extend the 30 day time limit for making a request for a review of an order. If more than 30 days has passed since the order was issued, the request to review the order must be accompanied by a request for an

extension of time. However, given the significant amount of time that has passed, it is highly unlikely that such a request would be granted.

It does not appear that a grant is likely to be of any assistance to this tenant, given that the time limits for further legal actions have passed. Unfortunately, there do not appear to be any further avenues available for assisting the tenants of 150 Finch Avenue West in relation to their application to the Ontario Rental Housing Tribunal.

CONTACT

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SIGNATURE

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