

To: Tenant Defence Sub-Committee

From: Phil Brown
General Manager, Shelter, Support and Housing Administration Division

Date: October 27, 2005

Subject: 150 Finch Avenue West

I am providing a report on staff's review of the tenant application at 150 Finch Avenue West as requested by the Tenant Defence Sub-Committee at the September 12 meeting.

According to the summary provided by the tenant, the building contained 6 rooming house units renting at \$400 a month. On January 31, 2003, the landlord gave a handwritten notice terminating the tenancies and requiring the tenants to vacate by March 31, 2003. The reason given was "construction"; there was no explanation about the nature of the construction (i.e. Demolition, conversion, repair or renovation). No compensation or right of first refusal was given to the tenants as would be required under the Tenant Protection Act, depending upon the nature of the construction. All of the tenants left the property by the end of March.

The tenant who brought this matter to the attention of Councillor Jenkins applied to the Ontario Rental Housing 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 but the Tribunal dismissed the case. The reason given for the dismissal is 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.

Shelter, Support and Housing Administration staff have reviewed the tenant's summary of events and the relevant provisions in the Tenant Protection Act with Legal Services staff. Legal Services has advised that they only provide opinions to the City and therefore cannot provide advice that would be relied on by the tenants. However, Legal Services staff note that 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. In particular Legal Services note that the Tribunal found that the tenants did not file their application within the one year time limit and, even if it could be argued that the Tribunal erred in this finding, the time limit for appealing the order is 30 days, and that deadline has now passed. The notice of appeal would have had to have been 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 2 years and 8 months since the landlord gave the tenants the notice of termination and over 2 years and 6 months since the tenants vacated the building.

Normally, in a situation where tenants are evicted because the landlord applies for demolition or conversion of the building, it is within the mandate of the Tenant Support Grants Program to approve a grant where there is an Ontario Municipal Board hearing, and in my opinion, it would likely have been within the spirit and intent of the Program to have provided some support to the tenants in this particular situation. However, in view of Legal staff's comments, it appears that a grant would not assist this tenant to dispute the eviction as the time limits for taking legal action have passed.

Phil Brown