



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

Decision

Decision Codes: DRI, OLC, ERP, O, FF,

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel a noncompliant Notice of Rent Increase dated November 1, 2009 and purporting to be effective February 1, 2009, an order for repairs and an order to compel the landlord to comply with the Act and a previously issued Order ordering the landlord to change the locks on the building by January 31, 2010.

Both parties appeared and gave testimony.

Issue(s) to be Decided

The issues to be determined based on the testimony and the evidence are:

- Whether the Notice of Rent Increase should be cancelled
- Whether an order should be issued to compel the landlord to do repairs on another resident's unit
- Whether or not the landlord has complied with a previously issued order and if not, how to ensure that the landlord comply with the order issued.

The burden of proof is on the applicant/tenant to prove that the landlord is in violation of the Act and that an order compelling the landlord to comply with the Act is warranted.

Background and Evidence

The tenancy began approximately 4 years ago and the current rent was \$500.00 per month. At the outset of the testimony, the parties testified that the portion of the application regarding the noncompliant Notice of Rent Increase and the request for repairs of the other resident's unit had been resolved.

Therefore the only matter that remained before me was the tenant's request for enforcement of an order that was issued to the tenant after a hearing held on October 22, 2009. The order granted to this tenant required the landlord to change the locks and install a new key system by January 31, 2010.

The tenant testified that this has not been done and the landlord is in violation of the order that was served on the landlord by the tenant back in October 2009.

The landlord testified that they are in the process of complying with the order issued in October. The landlord testified that the due date would have been met had they merely changed the locks and issued new keys. However, a decision was made that the existing mechanical system of entry was not going to be reinstalled but would be replaced with a more sophisticated model and this has caused an unavoidable delay.

The landlord stated that, although unauthorized new copies of keys cannot be made with the current mechanical system, there has been a problem of people absconding without returning their building keys and this has resulted in hundreds of re-issued keys for the building being made over time, most of which are no longer in the possession of the landlord nor the current residents of the 30-unit building.

The landlord testified that the type of re-keying system that will replace the mechanical locks is one that will ensure a safer environment by giving the landlord the ability to prohibit entry by anyone who has been evicted or has moved out of the building. The new system, according to the landlord, involves a computerized data management unit with programmable entry codes on cards that are specific to each tenant and will be issued only to those residing in the building.

The landlord testified that this change will result in immediate termination of access, that the requisite mechanical re-keying system cannot do. The landlord testified that implementing the new electronic system requires a significant amount of preparatory work that has taken longer than expected and will take another 6 weeks to fully complete.

The landlord testified that there is no way this can be expedited and that even if they were to install rekeyed mechanical locks as a temporary measure at this point, it would take at least 3 weeks to implement and would cost in excess of \$1,200.00 and would not guard against the previous problems either. The landlord asked for more time.

Analysis

I find that an order was issued that the landlord change the locks and that the landlord has not complied with this order despite having over five months to do so. While I accept the landlord's testimony that the new system will better serve the security needs of the tenant and the other residents and that this system requires additional preparation such as installing electrical services to the doors and arranging for the computer data management equipment, I find that the landlord failed to provide any evidence to support its position. The landlord has not submitted any evidentiary material to prove what has been done to date and what needs to be done to accomplish the new entry system. If the landlord had been working so closely with the service provider named, it would follow that some paperwork such as planning documents and pricing data or even a proposed schedule would have been available.

In any case, there is no doubt that the tenant obtained an order and that the order was not complied with by the landlord. This is a violation of the Act. The problem is what can be done to guarantee that the landlord's latest proposed completion date will be met? I find that merely issuing another order would not be productive since the first order was not followed.

In cases where a landlord has neglected to complete necessary repairs ordered for a rental unit, a subsequent order will often be granted to the tenant authorizing the tenant to arrange to have the repairs done without the landlord and deducting all of the costs expended from the tenant's future rent. I find that this is not an appropriate alternative given the costs and the fact that there are many tasks involved with changing the locks that would require a landlord to liaise directly with existing and new renters, which is something that would be beyond what an individual tenant could feasibly do without the landlord's participation and cooperation.

Accordingly, I find that the only option at this point is to award the tenant a rent abatement of \$150.00 per month until the enforceable order she had obtained is honoured and a new fully functional lock system or alternative mechanical lock system has been installed by the landlord. Therefore, the tenant's rent as of April 1, 2010 will be \$350.00 and will continue to be \$350.00 per month until the first day of the month following the completion of the lock changes. The effective date of any applicable Notices of Rent Increase will be held in abeyance pending the resolution of this matter. Should the situation continue beyond June 1, 2010, this tenant is at liberty to make another application for dispute resolution to have this matter dealt with further.

Conclusion

Conclusion

Based on evidence and testimony above, I order that the tenant be granted a rent abatement of \$150.00 that will be effective April 1, 2010 and will continue until the until the first day of the month following the completion of the changes to the building locks.

The tenant is also entitled to be reimbursed the cost of filing this application and may deduct \$50.00 from the next rental payment owed.

March 2010

Date of Decision

Dispute Resolution Officer