



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes O

Introduction

This matter dealt with an application by the tenant to deal with issues pertaining to a verbal agreement between the tenant and landlord.

Service of the hearing documents was done in accordance with section 89 of the *Act*, and was sent by registered mail to the landlord on March 28, 2011. The landlord confirmed receipt of the hearing documents. Both parties confirmed receipt of the other parties' evidence.

Both parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

Issue(s) to be Decided

- Is the tenant entitled to an Order for the landlord to convert the upper unit and her unit into one larger unit?

Background and Evidence

Both parties agree that this tenancy started on February 01, 2010. A written tenancy agreement is in place for this unit. Rent is \$550.00 per month due on the 1st day of each month.

The tenant testifies that she had a verbal agreement with the landlord after the start of her tenancy in which the landlord agreed to convert the tenants unit and the empty unit above the tenants into one larger unit the tenant would then rent. The tenant states this work was supposed to be completed before the spring break but the landlord has not yet finished the work and has now changed her mind about converting the units into one.

The tenant states she has had to live through a noisy construction stage while the landlord did some renovations upstairs but states she was willing to do this due to the benefit to her of having a larger unit at the end of the work.

The tenant states she has purchased a large amount of new furniture to go into the new larger unit but has now been left with this as the landlord has changed her mind. The tenant seeks an Order for the landlord to finish the work and to uphold their verbal agreement to provide the larger unit for the tenants use.

The landlord testifies that she did initially agree to convert the units into one larger unit. She states when she changed her job she became very busy and then decided to complete the work and put a manager into the larger unit as she no longer had time to manage her units. She states she served the tenant with a Two Month Notice to End Tenancy but this was overturned at a previous hearing.

Since that time the landlord states she has decided it would not be economically viable to convert the units into one and intends to seek a manager to live in the upper unit only. The landlord states she became undecided about the project when they found problems about putting in a staircase to connect the two units. The landlord states she has now decided not to turn the units into one unit now or in the future.

Analysis

I have carefully considered all the evidence before me, including the affirmed evidence of both parties. I refer the parties to s. 14 of the *Residential Tenancy Act* which relates to changes to tenancy agreements and states:

14 (1) A tenancy agreement may not be amended to change or remove a standard term.

(2) A tenancy agreement may be amended to add, remove or change a term, other than a standard term, only if both the landlord and tenant agree to the amendment.

While I accept that a verbal agreement was entered into, this agreement was made after the tenancy agreement was entered into and was not included as a part of the tenancy agreement or documented as a material term of the tenancy agreement. As such the landlord or tenants are only entitled to alter a material term of their tenancy agreement if both parties agree to this alteration in writing. As this was a verbal agreement and the landlord has now changed her mind the tenant has no recourse in forcing the landlord to uphold their verbal agreement and consequently her application to do so is dismissed.

Conclusion

The tenants' application is dismissed without leave to reapply.

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: April 19, 2011.

Residential Tenancy Branch