



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes LAT, OLC and FF

Introduction

This hearing was convened on the tenant's application for authorization to change the locks on the rental unit and an order that the landlord comply with the legislation and rental agreement, specifically with respect to the tenant's quiet enjoyment of the rental property. The tenant also sought to recover the filing fee for this proceeding from the landlord.

Issue(s) to be Decided

Has the tenant's right to quiet enjoyment of the rental property been breached to a degree that would warrant authorization to change the locks? Has the landlord or an agent of the landlord breached the statutory requirement by entering the rental unit without consent of the tenant or without having given proper 24-hour notice?

Background and Evidence

This tenancy exists on a large rural property containing a 3500 square foot main house, a 700 square foot guest house, a barn and a garage. Rent is stated on the rental agreement as \$1,000 per month, but the tenant pays \$200 per month and the balance was to be covered primarily care of the flower beds, according to the landlord.

During the hearing, the landlord, who resides outside of the province, gave evidence that this dispute arises from the fact that she has had a long standing practice of allowing members of her church to use the property to play pool about once a week. She stated that, at the beginning of the tenancy, she paid \$600 to have the pool table moved from the guest house to the main house so the pool playing would not interfere with the tenancy.

The tenant submits that under the rental agreement, he is employed by the landlord as caretaker of the property and that he has full use of all of it. The tenant stated that this application arose because friends or service persons engaged by the landlord had intruded on the property. He said his wife had been disturbed by a service person knocking on the door and others had looked in his window. The landlord stated that there was one incident of a person looking in the window, and unaware the pool table had been moved, had looked to see if the game was underway in the guest house.

The landlord stated that the tenant had, without authorization, stored a vehicle in the barn and had taken other liberties in denying access by others to the property.

The parties disagreed as to the content of the rental agreement. I did not have a copy before me, although the tenant states that he submitted one.

The tenant's concern arises from the fact that one key fits all doors and the alarm system which serves the whole property can be accessed by some of the persons who visit the property with the landlord's consent.

The tenant is also of the view that he has full access to the full property while the landlord stated that the original intention of the rental agreement and rental rate contemplated that the tenant would have exclusive use of the guest house only.

The landlord stated that she has served the tenant with a Notice to End Tenancy effective February 16, 2012 by way email, but it does not appear to have been served on the appropriate form.

Analysis

Given the rent of \$200 per month plus gardening services valued at \$800 per month, I find on the balance of probabilities that the agreement intended to provide the tenant with exclusive use of the guest house only.

The landlord concurred with the tenant's request to change the locks on the guest house only at his expense and I so order pursuant to section 31(3) of the Act.

I further order that, once he has changed the locks, the tenant must provide the landlord's real estate agent with a copy of that key at the earliest opportunity permit any necessary and lawful entry on behalf of the landlord.

I decline to award the filing fee as requested as I find that the application was based on an unreasonable assumption that the tenant was entitled to exclusive use of the whole property.

Conclusion

The tenant is authorized to change the locks on the guest house only and must provide a copy of the key to the landlord's agent.

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: January 06, 2012.

Residential Tenancy Branch