



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for an order to the landlord to comply with the Act, or regulation, or tenancy agreement, and to recover the filing fee for this application.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

Issue(s) to be Decided

Should an order be made to the landlord to comply with the Act?

Background and Evidence

The tenancy began on July 28, 2011. Rent in the amount of \$745.00 was payable on the first of each month. A security deposit of \$372.50 and a pet deposit of \$100.00 were paid by the tenant.

The tenant testified that there have been ongoing issues with other tenants in the building and that she has been assaulted and harassed. The tenant testified that she has spoken to the landlord, but the landlord has failed to take reasonable steps to protect her rights to quiet enjoyment.

The landlord's agent testified that all the tenant's are fighting and they are all complaining about each other, the landlord's agent stated she does not know who to believe or how to get the situation under control.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In this case the tenant has asked the landlord to take action regarding complaints of assault, and harassment on her by other tenants. The evidence of the landlord was that she is not sure how to deal with the situation as all the tenants are fighting and complaining about each other.

Every tenancy agreement contains the implied covenant of quiet enjoyment, which includes, but is not limited to, reasonable privacy, freedom from unreasonable disturbance, exclusive possession, subject to the landlord's right of entry under the legislation, and use of common areas for reasonable and lawful purposes, free from significant interference.

The landlord under the Act has an obligation to ensure each tenant's rights to quiet enjoyment are protected and if aware of an existing problem with inappropriate conduct within the building the landlord must take reasonable steps to prevent such conduct, such as provided written warning letters and if the behaviour is not corrected the landlord needs to take further action under the Act.

The landlord is cautioned that if she stands idly by while others engage in conduct that would infringe on the rights of quiet enjoyment of another tenant. That tenant may file a claim for damages if a landlord fails to take reasonable steps to prevent such conduct by other tenants. A copy of this decision may be produced in evidence in any further hearing.

The tenant is entitled to recover the cost from the landlord for filing this application. The tenant is entitled to deduct \$50.00 from a future month rent payable.

Conclusion

The landlord is order to comply with section Act.

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: May 18, 2012.

Residential Tenancy Branch