



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC

Introduction

This hearing dealt with an application by the tenant for an order setting aside a notice to end this tenancy and an order compelling the landlord to comply with the Act. Both parties were represented at the conference call hearing.

Issues to be Decided

Should the notice to end tenancy be set aside?
Should the landlord be ordered to comply with the Act?

Background and Evidence

The rental unit is in the basement of a home in which the landlord occupies the upper floor. Mail to the unit is delivered to a community mailbox. The landlord holds the key to the mailbox and has not given the tenant a copy.

The parties agreed that on May 7 the tenant was served with a one month notice to end tenancy for cause (the "Notice"). The second page of the Notice has a number of boxes which the landlord can check to indicate the reason the Notice was served. The landlord did not check any of those boxes, but wrote on the Notice, "Family is moving in". At the hearing, the landlord withdrew the Notice.

The tenant sought an order compelling the landlord to provide her with a key to the community mailbox. She stated that she has the right under the Act to access the residential property and argued that the mailbox should be considered a common area. She testified that she has only received mail on two occasions since she moved in and that she believes the landlord is not giving her mail to her promptly.

The landlord's agent stated that he believes the landlord is delivering mail to the tenant when it arrives and stated that he would be willing to make arrangements with Canada Post for another separate box for the tenant in the community mailbox, but only if the tenant bears that cost. He testified that on one occasion, the tenant came to the door

late at night asking for her mail and he did not give it to her because it was late and he did not know where his mother, who was sleeping, had placed the mail and the mail key.

Analysis

As the Notice has been withdrawn, it is unnecessary to address it.

As for the second claim, I find that the community mailbox, which is located off of the residential property, cannot be considered a common area. Therefore, I find that absent a term in the tenancy agreement in which the tenant is guaranteed unrestricted access to the mailbox, the tenant is not entitled to a key.

However, I find it more likely than not that the landlord is not delivering the tenant's mail to the tenant in a timely fashion. I have arrived at this conclusion based on the testimony of the landlord's agent in which he stated that at night, his sleeping mother had placed the mail and key somewhere in her own home. This suggests to me that she does not deliver the mail to the tenant as soon as she receives it.

I order the landlord to deliver to the tenant any mail received for her, no later than one day after it is received in the community mailbox. If the landlord is away from the rental unit, he is obligated to either provide the key to the tenant so she can collect her mail in his absence or to arrange for an agent to collect and deliver the mail each weekday.

Conclusion

The landlord is ordered to deliver the mail to the tenant as outlined above.

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: June 08, 2012

Residential Tenancy Branch