



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL OLC LRE

Introduction

This hearing dealt with an application by the tenant to cancel a notice to end tenancy for landlord's use, as well as for an order that the landlord comply with the Act and an order suspending or setting conditions on the landlord's right to enter the rental unit.

The tenant and her advocate participated in the teleconference hearing, but the landlord did not call into the hearing. On October 19, 2012 the tenant served the landlord with the application for dispute resolution and notice of hearing by registered mail. Section 90 of the Act states that a document is deemed to have been served five days after mailing. I find that the landlord is deemed served with notice of the hearing on October 24, 2012.

Issue(s) to be Decided

Did the landlord serve the tenant a valid notice to end tenancy?

Should the landlord be ordered to comply with the Act?

Should conditions be set on the landlord's right to enter the rental unit or property?

Background and Evidence

Tenant's Evidence

On September 29, 2012, the landlord gave the tenant a handwritten note, in which the landlord stated that the tenant had to move out of the rental unit because the landlord planned to move in. The tenant stated that the landlord did not serve her with any proper notice to vacate for landlord's use.

The tenant stated that the landlord has been repeatedly coming onto the rental property without notice or the tenant's permission. On some occasions the landlord has moved some of the tenant's possessions around. The tenant seeks an order requiring the

landlord to comply with the Act, particularly regarding entering the rental unit or property.

Analysis

I find that the landlord's note dated September 29, 2012 does not amount to proper notice to end the tenancy under section 49 of the Act. As there is no notice to cancel, the tenancy continues.

I accept the tenant's evidence that the landlord has repeatedly breached the Act by entering the rental unit without permission or proper notice. I therefore find that it is appropriate to order the landlord to comply with section 29 of the Act, which restricts the landlord's right to enter the rental property. A landlord may not enter the rental unit or property unless they first either receive permission of the tenant or they give written notice at least 24 hours prior to entering and sets out the reason for entering.

I do not find it is necessary at this time to set further restrictions on the landlord's right to enter the rental property, as the tenant confirmed that she wishes for the landlord to comply with section 29 of the Act regarding entering the rental unit or property.

Conclusion

As no notice to end tenancy was served, the tenancy continues.

I hereby order the landlord to comply with section 29 of the Act regarding entering the rental unit or property. If the landlord fails to comply with this order, it is open to the tenant to apply for monetary compensation.

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: November 5, 2012.

Residential Tenancy Branch