



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, OLC, ERP, LRE, LAT, FF

Introduction

This hearing convened as a result of a Tenant's Application for Dispute Resolution for Dispute Resolution in which she sought the following:

1. an Monetary Order for money owed or compensation or damage or loss under the Act, regulation or tenancy agreement;
2. an Order that the Landlord comply with the Act, regulation or tenancy agreement;
3. an Order that the Landlord make emergency repairs for health or safety reasons;
4. an Order suspending or setting conditions on the Landlord's right to enter the rental unit;
5. an Order authorizing the Tenant to change the locks to the rental unit; and
6. a Monetary Order to compensate the Tenant for the fee paid to file the application.

Preliminary Matters:

The Tenant confirmed that she had not paid rent for December 2014. The parties confirmed that the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and that a hearing was set for January 16, 2015 on the issue of the 10 Day Notice.

Issues to be Decided

The Tenant indicated several matters of dispute on her application. It was clear at the outset of the hearing that it was unlikely that the Tenant's application would be heard in its entirety within the time allotted and that an adjournment might be required.

The Tenant confirmed that the Landlord had made the emergency repairs relating to the oil furnace on December 8, 2014 such that the Tenant's request that the Landlord make emergency repairs was no longer at issue.

For disputes to be combined on an application they must be related. Not all the claims on this application were sufficiently related. Therefore, pursuant to section 59(2)(b) of the Act, I dealt with the following:

1. the Tenant's request for an Order that the Landlord comply with the Act, regulation or tenancy agreement;
2. The Tenant's request for an Order suspending or setting conditions on the Landlord's right to enter the rental unit; and
3. the Tenants request for an Order authorizing the Tenant to change the locks to the rental unit.

The balance of the Tenant's application is dismissed with leave to re-apply.

Background and Evidence

The Tenant testified that the tenancy began March 2011. The Tenant pays \$2,190.00 per month. She also rents the basement suite to a subtenant, S.N.

Tenant testified that the Landlord regularly enters the rental unit without prior notice. She testified that the first time she was aware the Landlord was doing this was six months into the tenancy. According to the Tenant, the Landlord is regularly at the rental unit cleaning the hard, as much as a few times a month. The Tenant testified that the Landlord has informed her on a number of occasions that she has had to enter the rental unit, after she has done so.

The Tenant testified that she operates a daycare, and that on more than one occasion she has come out of the napping room to find the Landlord standing in the rental unit.

The Tenant stated that on occasion the Landlord has given notice to enter the rental unit at a particular time, and then has entered the unit at other times contrary to the notice.

The Tenant also testified that the Landlord has entered the basement suite without S.N.'s knowledge or consent and that on one occasion she cleaned S.N.'s bathroom.

Introduced in evidence was a letter from S.N., who confirmed that the Landlord has entered the rental unit, as well as his living space on numerous occasions without providing adequate notice.

The Landlord denied entering the rental unit without the Tenant's consent and stated that she always provides notice in writing, unless it is an emergency.

The Landlord stated that she entered the rental unit on November 15, 2014 without the Tenant's consent as she was attending to the furnace repair. She stated that this was an emergency as the Tenant had reported the Landlord to the police and municipality for failing to provide a heat source.

The Landlord stated that she could not recall if she had entered the basement suite and cleaned the bathroom. She then stated that she cleared the drain in both the upper and lower rental units and that in fact the Tenant gave her permission to enter S.N.'s rental unit.

Analysis

Section 29 of the Act governs the landlord's right to enter the rental unit and reads as follows:

Landlord's right to enter rental unit restricted

- 29** (1) A landlord must not enter a rental unit that is subject to a tenancy agreement for any purpose unless one of the following applies:
- (a) the tenant gives permission at the time of the entry or not more than 30 days before the entry;
 - (b) at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes the following information:
 - (i) the purpose for entering, which must be reasonable;

- (ii) the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees;
 - (c) the landlord provides housekeeping or related services under the terms of a written tenancy agreement and the entry is for that purpose and in accordance with those terms;
 - (d) the landlord has an order of the director authorizing the entry;
 - (e) the tenant has abandoned the rental unit;
 - (f) an emergency exists and the entry is necessary to protect life or property.
- (2) A landlord may inspect a rental unit monthly in accordance with subsection (1) (b).

I accept the Tenant's evidence, and that of S.N. that the Landlord has entered the rental unit in contravention of section 29.

The Landlord is directed to comply with section 29. The Landlord is cautioned that such behaviour infringes the Tenant's right to quiet enjoyment and that the Tenant may file a claim for monetary damages if the Landlord continues to engage in such conduct.

The Tenant failed to submit any evidence as to the necessity for changing the locks on the rental unit, save and except her wish to restrict the Landlord's ability to enter. As the Tenant is required to furnish the Landlord with a set of keys, there is no benefit to making such an Order.

Conclusion

The Landlord is directed to comply with section 29 of the Act. The Tenant's request for an Order allowing her to change the locks is dismissed. The balance of the Tenant's application is dismissed with leave to re-apply.

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: December 23, 2014

Residential Tenancy Branch

