



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes O, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- an "other" remedy; and
- authorization to recover her filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The landlord's evidence indicates that the landlord served the tenant with the dispute resolution package on 30 June 2015 by registered mail. The landlord provided me with a Canada Post tracking number. The tenant appeared and did not contest service.

At the hearing the landlord explained that she seeks an order allowing her and her agents to enter the rental unit for a monthly inspection pursuant to subsection 29(2) of the Act. The landlord also explained that she seeks an order permitting her to take photographs of damage to the rental unit.

Issue(s) to be Decided

Is the landlord entitled to an order allowing her to enter the rental unit for a monthly inspection? Is the landlord entitled to recover her filing fee from the tenant?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the submissions and / or arguments are reproduced here. The principal aspects of the landlord's claim and my findings around it are set out below.

This tenancy began on or about 15 December 2011. It is a fixed-term tenancy for five years ending on or about 15 December 2016. Monthly rent of \$3,000.00 is due on the second.

On or about 8 June 2015, the landlord attended at the rental unit with her husband, RF, and her son-in-law, VK. The parties agree that the tenant refused access to anyone except the landlord herself. The parties agree that the tenant or tenant's husband interfered with the landlord or her agent taking photographs.

Analysis

The landlord wishes to enter the rental unit to perform an inspection and document damage.

Paragraph 29(1)(b) permits a landlord to enter the rental unit with notice:

A landlord must not enter a rental unit that is subject to a tenancy agreement for any purpose unless one of the following applies: ...

- (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;

Subsection 29(2) sets out that a landlord may conduct monthly inspections in accordance with paragraph 29(1)(b).

Residential Tenancy Policy Guideline, "7. Locks and Access" provides more information on what may constitute a "reasonable purpose":

Where a notice is given that meets the time constraints of the Act, but entry is not for a reasonable purpose, the tenant may deny the landlord access. A

"reasonable purpose" may include:

- inspecting the premises for damage,
- carrying out repairs to the premises,
- showing the premises to prospective tenants, or

- showing the premises to prospective purchasers.

However, a "reasonable purpose" may lose its reasonableness if carried out too often. Note that under the Act a landlord may inspect a rental unit monthly.

The effect of section 29 and Guideline 7 is that, in addition to other reasonable purposes, the landlord is permitted to conduct a monthly inspection of the rental unit as long as the landlord provides notice that complies with paragraph 29(1)(b) of the Act.

Section 1 defines "landlord":

"landlord", in relation to a rental unit, includes any of the following:

- (a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,
 - (i) permits occupation of the rental unit under a tenancy agreement, or
 - (ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;...

This definition of "landlord" is highly inclusive and includes an agent of the owner. An agent is a person authorized by another to act for or in the place of that person.

In this case, the landlord seeks to enter with her husband and her son-in-law. As long as the husband and son-in-law are acting as the landlord's agents each is then a "landlord" within the meaning of the Act. A landlord cannot be prevented from entering the rental unit as long as effective notice is given.

The landlord seeks to take photographs of damage to the rental unit. There are no provisions in the Act that explicitly deal with restrictions on photographs. As long as the landlord respects the tenant's right to quiet enjoyment pursuant to section 28 of the Act and *Residential Tenancy Policy Guideline* "6. Right to Quiet Enjoyment" there is no basis to prevent the landlord from taking photographs. This is especially the case where the landlord wishes to document damage to the rental unit.

Subsection 62(3) allows me to make any order necessary to give effect to the rights, obligations and prohibitions under this Act. Pursuant to subsection 62(3) of the Act I order that:

- pursuant to section 29 of the Act the landlord, on proper notice, is permitted to inspect the rental unit monthly;

- pursuant to section 1 of the Act, “landlord”, for the purposes of this entry, includes, but is not limited to, the landlord, the landlord’s husband RF, the landlord’s son, AM, and the landlord’s son-in-law, VK;
- the tenant (or person permitted on the property by the tenant) shall not refuse entry to the landlord(s); and
- subject to section 28 of the Act, the landlord(s) are permitted to take photographs in order to document damage to the rental unit.

The tenant is cautioned that failure to comply with this order may be cause to end the tenancy pursuant to paragraph 47(1)(l) of the Act.

This order is in effect immediately from service on the tenant.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$50.00 filing fee paid for this application.

Conclusion

The tenant is ordered to allow the landlord(s) access to the rental unit in compliance with the above order.

I issue a monetary order in the landlord’s favour in the amount of \$50.00. The landlord is provided with this order and the tenant(s) must be served with this order as soon as possible. Should the tenant(s) fail to comply with this order, this order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under subsection 9.1(1) of the Act.

Dated: August 27, 2015

Residential Tenancy Branch

