



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 228 East Pender Holdings Ltd. and Living Balance Investment Group
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, MNDC

Introduction

This hearing dealt with the tenant's application for orders compelling the landlord to comply with the Act, regulation or tenancy agreement, and granting her a monetary order. The tenant confirmed in the hearing that the only financial compensation she was requesting was reimbursement of the fee she paid to file this application.

The representative of the landlord advised that although she is employed by one of the Respondents named in this application that party is not the owner of this building and has nothing to do with this tenancy. The landlord is the first company named as a Respondent.

Issue(s) to be Decided

Should an order be made requiring the landlord to take certain action and, if so, on what terms?

Background and Evidence

This tenancy commenced December 15, 2013 as a one year fixed term tenancy and has continued thereafter as a month-to-month tenancy. At the start of the tenancy the monthly rent, which is due on the first day of the month, was \$700.00. As of December 1, 2015, the rent has been increased to \$717.00.

On Tuesday, October 13, 2015, late in the afternoon, a Notice of Entry for the following day was slipped under the tenant's door. The tenant was very upset because she has a special needs pet and so she must either be present in the unit or arrange for a baby sitter to be present when strangers are going to be in her unit. Ultimately, her employer gave her the afternoon off and she was able to be present during the inspection.

The tenant explained that this was the second time in the past few months that an incident with the landlord had distressed her. In May of 2015 they landlord misplaced the tenant's post-dated cheques and posted a 10 Day Notice to End Tenancy for Non-

Payment of Rent on the door of the rental unit. The tenant was profoundly embarrassed and upset by this incident.

The tenant filed copies of her e-mail exchange with the landlord on that occasion. In the e-mails she repeatedly demanded a personal conversation with the staff person who signed the notice to end tenancy and then a personal meeting with the property manager. Her demands included threats to file a complaint with the Residential Tenancy Branch and to consult with the family lawyer. Although the landlord apologized by e-mail the morning after the tenant's first e-mail she refused to accept the apology as an adequate response to her complaint.

The tenant explained that she was upset and frustrated by both incidents that were explained away as "lack of communication". She said that she had no objection to the inspection taking place but she felt she had been wronged and she wanted it recorded somewhere that the landlord had not complied with the legislation.

The property manager testified that she works' part-time. This rental unit is a designated SRO and the city had scheduled an inspection by the Property Use Inspector, the Fire Department, and Social Services, for Wednesday October 14. She had prepared the Notices of Entry on Thursday, October 8. When she left work that day she thought she had made the necessary arrangements for their delivery. That weekend was the Thanksgiving holiday weekend. She did not work on Friday and when she returned to work on Tuesday, she discovered that the notices had not been delivered. Because so many civic officials were involved in the inspection they decided to go ahead with the inspections.

The tenant was the only tenant who complained. When she spoke to the tenant on the telephone she explained what happened and apologized. The tenant wanted a written apology. The property manager said she was busy that week but would send an apology the following week.

The tenant filed this application for dispute resolution on October 15. She received the apology from the property manager on October 20, the day after the application was delivered to the landlord by registered mail.

There was no evidence of any improper entry by the landlord.

Analysis

Section 29 of the *Residential Tenancy Act* sets out the situations in which a landlord may enter a rental unit. The two most common are the tenant gives permission at the

time of entry or not more than thirty days before the entry; or the landlord gives notice of entry as required by the Act. If proper notice of entry is given by the landlord the tenant cannot deny entry nor can they insist on being in the rental unit at the time of entry. If the landlord does not give proper notice the tenant may deny entry. In this case the tenant permitted entry so there was no breach of the legislation.

In cases where there is a pattern of breaches of the legislation by the landlord an arbitrator may make an order compelling the landlord to comply with the Act, regulation or tenancy agreement in a particular manner, and/or may grant the tenant a monetary order for any loss or damage suffered by the tenant as a result of the breach.

In this case there is no pattern of disregard for the legislation or tenancy agreement. On the first occasion the landlord rectified the problem in short order; on the second occasion the tenant consented to the entry. On both occasions, the landlord apologized to the tenant for the error.

Although the tenant had asked on the application that a letter of apology be sent to all the tenants of the building but the application is in her name alone and there is no documentation that any of the other tenants of the building have authorized her to act on their behalf.

There was no further order that could be granted on this application. Accordingly, the tenant's application for reimbursement from the landlord of the filing fee is dismissed.

Conclusion

The tenant's application is dismissed.

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 16, 2015

Residential Tenancy Branch

