



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes DRI LRE LAT FF

Introduction

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

- a determination regarding their dispute of an additional rent increase by the landlord pursuant to section 43;
- an order to suspend or set conditions on the landlord's right to enter the rental unit and authorization to change the locks to the rental unit pursuant to section 70;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions.

Issues

Is the rent increase in compliance with the Act?

Is the tenant entitled to an order to suspend or set conditions on the landlord's right to enter and authorization to change the locks?

Is the tenant entitled to recover the filing fee for this application from the landlord?

Background

The tenancy began on May 1, 2014 with a monthly rent of \$1250.00 payable on the 1st day of each month. The tenant paid a security deposit of \$600.00 at the start of the tenancy. The tenancy is on a month-to-month basis.

Evidence & Analysis

Is the rent increase in compliance with the Act?

The parties agreed that a rent increase has not been implemented nor has the landlord made any application for a rent increase. The landlord had attempted to have the tenants mutually agree to a rent increase and enter into a new tenancy agreement but the tenants refused to sign the new agreement.

I find this portion of the tenant's application is premature and it is dismissed. If the landlord does pursue a rent increase it must be done in accordance with section 43 of the Act.

Is the tenant entitled to an order to suspend or set conditions on the landlord's right to enter and authorization to change the locks?

The tenant alleges that on July 28, 2016 the landlord came to the front door of the rental unit and proceeded to bang on the door, shake the door knob and constantly ding the doorbell. The tenant testified that this occurred for a period of ten minutes and she was afraid someone was trying to break-in. The tenant argued that the landlord had previously threatened to shut down her home based business and she believed that is what he was coming to do. She is requesting the locks be changed and the landlord's right to enter be restricted as she feels unsafe and threatened. The landlord's daughter provided testimony that she witnessed and identified the landlord as the person at the door.

The landlord denies the allegation and testifies that he wasn't even in the area at the time of the incident. Further, the landlord argues that if he wanted to gain access to the rental unit he could have just used his key.

Pursuant to section 70 of the Act, the director may suspend or set conditions on a landlord's right to enter a rental unit under section 29 of the Act. Section 29 of the Act only addresses restrictions on the landlord's right to enter the "rental unit". The "rental unit" is defined in section 1 of the Act to mean the living accommodation. Residential property is broader and includes the rental unit as well as the parcel of land on which the rental unit is contained.

As per *Residential Tenancy Policy Guideline #7 "Locks and Access"*, The Act does not require that notice be given for entry onto residential property, however, the Act recognizes that the common law respecting landlord and tenant applies. Therefore, unless there is an agreement to the contrary, entry on the property by the landlord

should be limited to such reasonable activities as collecting rent, serving documents and delivering Notices of entry to the premises.

The parties' evidence was conflicting with respect to the alleged incident of July 28, 2016. Regardless of this conflicting evidence, there was no evidence submitted by the tenant that the landlord had actually entered the "rental unit" contrary to the Act. Therefore, I make no order to suspend or set conditions on the landlord's right to enter the rental unit or authorization for the tenant to change the locks.

The landlord is cautioned that, unless there is an agreement to the contrary, entry on the residential property by the landlord should be limited to reasonable activities as described above. Frequent and ongoing entry on to the residential property, unless for reasonable activities, may form a basis for a claim by the tenant for a breach of the covenant of quiet enjoyment.

Is the tenant entitled to recover the filing fee for this application from the landlord?

As the tenant was not successful in this application, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for this application from the landlord.

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: September 16, 2016

Residential Tenancy Branch