Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes   CNL, LRE, DRI, OLC

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

1. An Order cancelling a notice to end tenancy - Section 49;

2. An Order suspending or setting conditions on the Landlord's right to enter the unit - Section 70;

3. An Order cancelling a rent increase - Section 43; and

4. An Order for the Landlord's compliance - Section 62.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Preliminary Matters

The Tenant states that they are moving out of the unit on or before November 30, 2016 and have not paid the rent for November 2016 in lieu of the Landlord's notice to end tenancy for Landlord's use.   The Landlord states that he is aware that the rent increase that was to take effect November 1, 2016 does not comply with the Act. The Tenants state that they were only seeking an order for the Landlord's compliance in relation to the rent increase. As the tenancy will end and no rents will be payable past November 30, 2016 and given the Landlord's agreement that the rent increase does not comply with the Act I find that the rent increase is not effective and may not be applied to this tenancy. I dismiss the Tenant's claims in relation to the notice to end tenancy and in relation to the Landlord's compliance.

Issue(s) to be Decided

Is the Tenant entitled to an order allowing the locks to be changed?

Background and Evidence

The tenancy started on May 1, 2015. Rent of $700.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected $350.00 as a security deposit.

The Tenant states that the Landlord threatened in a voice mail to enter their unit without their permission or consent to remove their alarm. The Tenant provided an audio recording. The Tenant states that to their knowledge the Landlord has not entered their unit without their consent. The Landlord states that the Tenants are not allowed to install an alarm without the Landlord's consent. The Landlord states that there was previously a problem with the furnace and the Tenant was out of the unit. The Landlord states that the Tenant did not give him the alarm code. Tenant CD states that the alarm code was previously provided to the Landlord. The Landlord states that Tenant CD is not a tenant. The Landlord states that he has no intention to enter the unit without notice or permission but will enter the unit if an emergency requires the Landlord to enter to protect the building or other occupants. It is noted that Tenant CD verbally gave the Landlord the alarm code during the hearing.

Analysis

Section 31 of the Act provides that a tenant must not change a lock or other means that gives access to his or her rental unit unless the landlord agrees in writing to, or the director has ordered the change. Given what I consider to be evasive and irrelevant evidence from the Landlord in relation to a threat of entry by the Landlord into the unit, I accept the Tenant's evidence that the Landlord threatened to enter the unit without notice or permission. As a result I find that the Tenant has substantiated that there is a likelihood of the Landlord entering the unit without right. Although the tenancy will end within three weeks, given the likelihood of a wrongful entry by the Landlord and

considering the Tenant's rights to exclusive possession of the unit and the rights to privacy to the end of the tenancy, I find that the Tenant is entitled to change the locks to the unit and may do so immediately.

Conclusion

I grant the Tenant an order allowing the locks to be changed.

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 09, 2016

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Residential Tenancy Branch