



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes LRE, RP, RR & OLC

Introduction

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. An order to suspend or set conditions on the landlord's right to enter the rental unit.
- b. A repair order
- c. An order for the reduction of rent for repairs, services, or facilities agreed upon but not provided
- d. An order that the landlord comply with the Act, Regulations and/or tenancy agreement.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present. I ordered the style of cause of the Application be amended to delete the reference to P and to add JA by consent of the parties.

I find that the Application for Dispute Resolution/Notice of Hearing was served on the landlord by placing it in the landlord's mail slot on December 1, 2016.

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order suspending or setting conditions on the landlord's right to enter the rental unit?
- b. Whether the tenant is entitled to an order for repairs?
- c. Whether the tenant is entitled to an order for the abatement of past or future rent and if so how much?
- d. Whether the tenant is entitled to an order that the landlord comply with the Act, Regulations and/or tenancy agreement?

Background and Evidence

The tenancy began on August 1, 2012. The present rent is \$955 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$440 at the start of the tenancy.

The tenant gave the following evidence:

- Approximately 6 or 7 months ago the new landlord knocked on his door and asked if there were any problems that needed repair. The tenant pointed out a couple of light switches and a sink that was leaking. However, the landlord failed to make the repairs in a timely fashion.
- At the beginning of November there was a leak on the bottom floor of the apartment building. The landlord asked permission to enter the suite to find the problem. The tenant gave his permission for that day. The landlord entered twice that day and destroyed the drywall under the sink in trying to trace the leak.
- The landlord entered the suite of several other days to gain access to make repairs but failed to get the tenant's permission. During the process the contractors employed by the landlord left the place in a mess with drywall and drywall dust all over the floor.
- The tenant advised the landlord that he was objecting to the landlord's entry and the failure to follow the Act.
- The landlord entered on several other occasions without obtaining the tenant's permission. The tenant testified the landlord entered into his apartment six times in 2 weeks.
- He does not believe the landlord has entered his rental unit since he filed the within application.

The landlord gave the following testimony:

- The leak in question was a serious leak that was damaging 3 units.
- The work was delayed as the landlord had to accommodate the work schedule of the plumber and drywall contractor.
- There was a misunderstanding as the landlord thought the tenant had given permission.
- This is the first time he has heard of the repair issues.
- The other tenants in the rental property provided permission and there have not been any tenant objections to the actions of the landlord.

Analysis

Application to set conditions on the landlord's right to enter the rental unit:

I determined it was not necessary to suspend or set conditions on the landlord's right to enter except to order that the landlord comply with section 29 of the Act which provides 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).

Application for a Repair Order

I ordered that the landlord make the following repairs within 2 weeks of the date of this order:

- a. Repair the light switches to the entry way and bathroom
- b. Repair the light fixtures in the bathroom and kitchen
- c. Fix the leaky pipe under the kitchen sink,
- d. Repair the door lock
- e. Fix the hole in the drywall under the sink.

Reduction of Rent

The sought a reduction of past rent in the sum of \$55 per month for the last 2 years. I determined the tenant is entitled to compensation in the sum of \$50 per month to 3 months for a total of \$150 the following reason:

- I determined that the failure of the landlord to make repairs in a timely manner has adversely affected the enjoyment of the rental unit. However, the repairs are that significant compared to the value of the rental unit.
- I accept the search for the leak and the subsequent failure of the drywall contractors to clean the rental unit after repairs has impaired the enjoyment of the suite. I also accept the landlord's entry into the rental unit without giving notice has adversely affected the enjoyment of the rental unit.
- The landlord has not entered the rental unit since the tenant filed the application.
- Further, the tenant has a obligation to mitigate his loss and this includes an obligation to file an Application for Dispute Resolution in a timely manner. Had the tenant made such an application a repair order would have been issued and the matter would have been resolved within a relatively short period of time.

Conclusion

I ordered that the landlord comply with section 29 of the Residential Tenancy Act when accessing the rental unit. I issued a repair order. I ordered the landlord(s) to pay to the tenant the sum of \$150 such sum may be deducted from future rent.

Should the respondent fail to comply with this Order, the 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 section 9.1(1) of the Residential Tenancy Act.

Dated: January 04, 2017

Residential Tenancy Branch