



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Emerald Lake Lodge
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes O, OLC, FF

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 for the Landlord to comply with the Act or tenancy agreement - Section 62;
and
2. An Order to recover the filing fee for this application - Section 72.

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

Issue(s) to be Decided

Is the Tenant entitled to an order that the Landlord comply with the Act or tenancy agreement?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The Tenant is employed by the Landlord and is provided accommodation with the employment. The Tenant was initially provided accommodation in a residence out of town on June 12, 2015. There is a written tenancy agreement for this tenancy however neither party provided a copy of the agreement. On June 12, 2015 the Tenant moved into a different and larger unit, a house, located in town. The Tenant pays rent of \$402.00 per month for this unit that is shared with another person. On January 1, 2017 the Landlord wrote the Tenant a letter informing the Tenant that it was ending its tenancy in the current unit as of April 1, 2017 to allow for a different employee's accommodation. The Tenant was offered another unit back at the residence. Neither Party provided a copy of this letter.

The Tenant does not agree to end the tenancy at the house in town and seeks an order for the Landlord to comply with the Act. The Landlord states that it requires the Tenant's unit for a new manager and that the unit would not be shared by the new manager. Parties attempted to negotiate a settlement of the dispute while in the hearing but failed to reach an agreement.

Analysis

Section 44 of the Act provides that a tenancy ends only if one or more of the following applies:

(a) the tenant or landlord gives notice to end the tenancy in accordance with one of the following:

- (i) section 45 *[tenant's notice]*;
- (i.1) section 45.1 *[tenant's notice: family violence or long-term care]*;
- (ii) section 46 *[landlord's notice: non-payment of rent]*;
- (iii) section 47 *[landlord's notice: cause]*;
- (iv) section 48 *[landlord's notice: end of employment]*;
- (v) section 49 *[landlord's notice: landlord's use of property]*;
- (vi) section 49.1 *[landlord's notice: tenant ceases to qualify]*;
- (vii) section 50 *[tenant may end tenancy early]*;

(b) the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit on the date specified as the end of the tenancy;

(c) the landlord and tenant agree in writing to end the tenancy;

(d) the tenant vacates or abandons the rental unit;

(e) the tenancy agreement is frustrated;

(f) the director orders that the tenancy is ended.

There are no provisions under the Act that allow a landlord to end a tenancy with a letter.

Based on the undisputed evidence that the Landlord only provided a letter to end the tenancy and as this is not one of the options provided for under the Act I find that the tenancy has not been ended in accordance with the Act and that the letter is of no effect in ending the tenancy.

The Tenant is entitled to an order that the Landlord comply with the Act should the Landlord

wish to end the tenancy. Given the evidence describing the situation and in order to offer some clarity I set out below the following section of the Act that may be applicable to the situation:

Section 49(6) of the Act provides that a landlord may end a tenancy in respect of a rental unit if the landlord has all the necessary permits and approvals required by law, and intends in good faith, to, inter alia, convert the rental unit for use by a caretaker, manager or superintendent of the residential property.

This section would require the issuance of a two month notice to end tenancy in the form provided by the Residential Tenancy Branch.

As the Tenant has been successful with its application I find that the Tenant is entitled to recovery of the \$100.00 filing fee. The Tenant may deduct this amount from future rent payable in full satisfaction of this claim.

Conclusion

I order the Landlord to comply with the Act if the Landlord wishes to end the tenancy.

I grant the Tenant an order under Section 67 of the Act for **\$100.00**. If necessary, this order may be filed in the Small Claims 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: March 09, 2017

Residential Tenancy Branch