



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, RP, LRE

Introduction

This hearing dealt with the tenants' application pursuant to the Residential Tenancy Act (the "ACT") for:

- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make repairs to the rental unit pursuant to section 33; and
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70.

The landlord did not attend this hearing which lasted approximately 30 minutes. The tenants attended and were given a full opportunity to be heard, give affirmed testimony, present evidence, and call witnesses. The tenants represented themselves with the assistance of their advocate.

The tenants testified that they served the tenants' application for dispute resolution on July 10, 2017 by handing it to the landlord in person when he attended at the rental unit. Based on the undisputed testimony of both of the tenants, I find that pursuant to section 89(1) of the Act, the landlord was duly served with the tenants' application on July 10, 2017.

Issue(s) to be Decided

Should the landlord be ordered to make repairs to the rental unit? Should conditions be set on the landlord's right to enter the rental unit? Should the landlord be ordered to comply with the Act, regulations or tenancy agreement?

Background and Evidence

The tenants provided the following undisputed evidence. This tenancy began in April, 2017. The monthly rent is currently \$1,800.00 payable on the first of the month. A security deposit of \$925.00 was paid at the start of the tenancy and is still held by the landlord. The rental unit is a detached home with a backyard. The tenants have exclusive use and occupancy of the building and adjoining yard pursuant to their tenancy agreement.

The tenants gave evidence that since the tenancy started the landlord has frequently attended at the rental unit unannounced and uninvited. The tenant MD testified that the landlord enters the backyard of the rental unit without notice or permission. She has been startled by his presence in the yard on numerous occasions. She says that it is possible to see into the bathroom window through the backyard. The landlord has explained that he is at the rental unit to perform lawn maintenance but that is the tenant's responsibility according to the tenancy agreement. The tenants testified that on one occasion the landlord simply sat in the yard for over an hour and refused to leave.

The tenants testified that the rental unit requires repairs and maintenance in several areas which has been requested but remains unaddressed. The tenants said that the washer and dryer provided by the landlord do not function and cannot be used at all. The tenants said that they have been forced to commercially rent a working washing machine and dryer until the appliances are repaired.

The tenants testified that the plumbing backed up sometime in June, 2017 and that the backyard of the rental unit was not adequately cleaned. The tenants said that sewage and refuse still litters parts of the yard as of the date of the hearing.

The tenants said that the rental unit is infested with carpenter ants. The tenants testified that they have utilized pesticides, traps and other means to attempt to resolve the issue but the ants continue to infest the rental building.

The tenants said that the doors of the rental unit are equipped with inadequate locks that can be tampered with easily. The tenants said that they feel unsafe and have requested the landlord install proper functioning locks. The tenants said that they have been informed by the landlord that the former occupants of the rental unit still retain keys and have the ability to enter the rental unit.

The tenants gave evidence that the underlay in the basement is pungent and requires replacement. The tenants said that the underlay appeared to be old, weathered and soaked through with the strong odor of ammonia. The tenants said that a new underlay is required in order for the area to be usable.

The tenants submitted into written evidence several photographs of the rental unit in support of their application. The tenants testified that they have requested the landlord attend to the deficiencies but to date, no action has been taken.

Analysis

Section 29 of the Act delineates the restrictions on a landlord's right to enter a rental unit. The Act provides that a landlord must not enter the rental unit unless given permission by the tenants, or the landlord has provided 24 hours notice which includes providing reasonable reasons for requiring access.

Based on the undisputed evidence of the tenants I find that the landlord has attended the rental unit without proper notice or permission of the tenants. If there is a reasonable reason for requiring access, the landlord has failed to disclose it to the tenants. While the Act prohibits the landlord from entering the rental unit without proper notice, I accept the tenants' evidence that the landlord has been disregarding these requirements. Therefore, under the circumstances I find that it is appropriate to issue an Order that the landlord comply with the Act and not enter the rental unit, which includes the yard, without complying with the requirements of section 29 of the *Act*.

A landlord has the obligation to provide and maintain the residential property in a state of repair that complies with the health, safety and housing standards of the law and makes the rental unit suitable for occupation by a tenant. The landlord also has an obligation under a tenancy agreement to provide those services and amenities promised under the contract.

I accept the undisputed evidence of the tenants that the landlord has failed to provide the services and amenities promised in the tenancy agreement and has not maintained the residential property in an adequate state of repair.

Based on the undisputed evidence of the tenants and the written evidence I determine that a repair order for the following outstanding issues is appropriate.

- a. Repair or replace the washing machine and clothes dryer so that they are fully functional.
- b. Complete cleanup of the backed up sewage refuse on the rental property.
- c. Hire a professional pest control company or otherwise take steps to rid the rental property of the pest infestation.
- d. Replace the locks of the rental building.
- e. Replace the underlay of the basement of the rental unit.

I order that the repairs be completed by August 31, 2017.

Conclusion

I order that the landlord not enter the rental unit unless it is done in accordance with the *Act*.

I order that the landlord complete the following repairs by August 31, 2017.

- a. Repair or replace the washing machine and clothes dryer so that they are fully functional.
- b. Complete cleanup of the backed up sewage refuse on the rental property.
- c. Hire a professional pest control company or otherwise take steps to rid the rental property of the pest infestation.
- d. Replace the locks of the rental building.
- e. Replace the underlay of the basement of the rental unit.

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: July 31, 2017

Residential Tenancy Branch