



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BAKONYI HOLDINGS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, ERP, RP, PSF, LRE, RR

Introduction

This hearing dealt with the tenant's 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;
- an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order to the landlord to provide services or facilities required by law pursuant to section 65; and
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70.

The landlords and the tenants were represented at the hearing and were given a full opportunity to present evidence, give sworn testimony, make submissions and cross-examine one another. The corporate landlord was represented by its directors RB and DB. The personal landlord RB (the "landlord") primarily spoke on behalf of the landlords.

The tenant objected to the participation of the landlord DB saying that he has had no dealings with him during the tenancy. DB confirmed that he is one of the directors of the named corporate landlord. I accepted the landlord DB's testimony that he is one of the directors of the corporate landlord that was named as a respondent and thus entitled to participate in the hearing.

The tenant objected to the presence of the landlord DR in the hearing and stated that he should be excluded until called to give evidence. As the landlord DR is one of the

named respondents to the tenant's application he is a party to the proceeding and entitled to participate in the hearing. Accordingly, I refused the tenant's application to have the landlord excluded from the hearing.

The landlord confirmed that the tenant's application and evidentiary materials were served on the corporate landlord and the personal landlord RB but none of the other named respondents were served with the tenant's materials. I find that the corporate landlord and the personal landlord RB were duly served in accordance with sections 88 and 89 of the *Act*. I find that the other named respondents, VB and DR were not properly served in accordance with the *Act* and accordingly I dismiss the tenant's application as against those respondents.

The tenant noted that the landlord's evidence package was served on him after the service deadline on November 2, 2017. However, the tenant testified that he had received the evidentiary materials and has had an opportunity to review it. I find that the landlord's evidence was sufficiently served on the tenant in accordance with section 71(2)(c) of the *Act*.

Issue(s) to be Decided

Should the landlord be ordered to comply with the *Act*, regulations or tenancy agreement?

Should the landlord be ordered to make emergency repairs or repairs to the rental unit?

Should the landlord be ordered to provide services or facilities agreed upon but not provided?

Is the tenant entitled to reduce the rent for repairs and services agreed upon but not provided by the landlord?

Should the landlord's right to enter the rental unit be restricted?

Background and Evidence

While I have turned my mind to all the evidence, including photographs, miscellaneous correspondence, and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here. The principal aspects of the tenant's claims and my findings around each are set out below.

This periodic tenancy has been ongoing for over 25 years. The tenant characterized the recent relationship with the landlords to be one of harassment and discrimination. The tenant claimed that he is being singled out for the discriminatory treatment by the landlords. As an example of the alleged discrimination the tenant pointed out the fact

that the landlord pronounced the tenant's name incorrectly during the hearing. The tenant said that this was indicative of the harassment he faced from the landlord.

The tenant testified that while other residents of the rental building have had improvements made to their units he has not been offered new appliances or timely repairs when he requests them. The tenant said that he informed the landlord of various deficiencies including water leakage and the need for repairs in the kitchen and bathroom of the rental unit but no appropriate action was taken.

The tenant gave evidence about an incident in 2017 where the landlord inspected the rental unit, gaining access through "chicanery" and "trickery". The tenant testified that he allowed the landlord access but because the visit occurred on a weekend morning he did not have the presence of mind to refuse the landlord's request. The tenant said that the landlord took photographs during the inspection. The tenant said that the landlord has never done an inspection of the rental unit during the two decade tenancy prior to this incident. The tenant believes the landlord is holding him to an unreasonable standard of maintaining the rental unit and demanding it be cleaned.

The tenant testified that he believes that the landlord or an agent of the landlord has entered the rental suite in his absence. The tenant gave evidence that he felt fear and anxiety because of his beliefs. The tenant said that the landlord has not denied the accusations that they have entered the rental suite and have taken no steps to allay the tenant's anxieties.

The landlord disputes the tenant's version of events. The landlord testified that they have conducted suite inspections throughout the length of the tenancy. The landlord submitted into written evidence copies of notices issued to the tenant during the tenancy requiring access to the rental unit. The landlord testified that they have not violated the Act, regulations or tenancy agreement. The landlord stated they have performed necessary repairs in a timely basis when informed by the tenant. Because of the condition of the rental unit the landlord said some repairs cannot be conducted until the tenant cleans and allows access.

Analysis

Rule of Procedure 6.6 sets out as follows:

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed.

The onus to prove their case is on the person making the claim.

Based on the totality of the evidence I find that the applicant has not shown on a balance of probabilities that there is basis for any of the various relief he seeks. The tenant's evidence primarily consists of accusations, conjecture, suspicions and correspondence between the parties. In general, I found the tenant to be an unreliable witness whose testimony was disputed by the landlord and not supported in the written evidence.

The tenant believes that he has been discriminated by the landlord but there is little evidence in support of the tenant's claim. The tenant believes that other residents of the rental building have been provided appliances and amenities which he has not been given, but I find there is insufficient evidence to support the tenant's belief. Even if some rental units have been upgraded or had appliances replaced that does not entitle the tenant to replacement appliances of his own. Coveting your neighbor's appliances is not a basis for an order that the landlord provide the same items. Accordingly, I dismiss the tenant's application that the landlords provide services or facilities or for the tenant to reduce the monthly rent due to services or facilities not provided.

There is insufficient evidence to show on a balance that any of the repairs that the tenant believes are necessary are a real issue. I find that there is insufficient documentary evidence in support of the tenant's claims that there are leaks in the rental unit. I accept the landlord's evidence that repairs have been performed in reasonable time when they are necessary and when the landlords have been made aware of the issue. I dismiss this portion of the tenant's application.

I find that the tenant has not shown on a balance that there has been any violation of the Act, regulations or tenancy agreement by the landlord. I accept the landlord's testimony that they have not entered the rental unit without the permission of the tenant or in accordance with the *Act*. Despite the testimony the tenant continued to accuse the landlord of entering the rental unit in his absence. The tenant questioned why the landlord did not refute the tenant's accusations to give the tenant some peace of mind. Based on the testimony during the hearing and the correspondence submitted into written evidence I find that the landlord has refuted the tenant's allegations. It is not the responsibility of a landlord to allay anxieties or to convince a tenant of the truth of their statements. I find that the landlord has acted reasonably and in accordance with the relevant portions of the Act, regulations and tenancy agreement. As such I find there is no evidentiary basis for an order that the landlord comply and dismiss this portion of the tenant's application.

Furthermore, I find that there is no basis for an order restricting the landlord's right to access the rental unit. I accept the evidence of the landlord that any access has been in accordance with the Act and consented to by the tenant. I do not find the tenant's evidence that they were "duped into allowing immediate access" to be credible. I find the tenant's testimony and argument about the circumstances of the rental unit inspection to be nonsensical and without an air of reality. I dismiss the tenant's application to restrict the landlord's right to enter the rental unit.

I find that individually and in its totality the tenant has not shown sufficient evidence to prove their case on a balance of probabilities. Consequently, I dismiss the tenant's application.

Conclusion

The tenant's application is dismissed without leave to reapply.

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 8, 2017

Residential Tenancy Branch