



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ASSOCIATED PROPERTY MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes AS, FF

Introduction

On September 21, 2017, The Tenants applied for Dispute Resolution seeking clarification on their right to assign or sublet, or add an occupant to the rental unit.

The matter was scheduled as a teleconference hearing. The Tenants and the Landlords appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. All participants in the hearing provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Background and Evidence

The parties entered into a fixed term tenancy that began on March 1, 2017, to continue until February 28, 2018. Rent in the amount of \$2,600.00 is required to be paid to the Landlord by the first day of each month. The parties testified that Tenants paid the Landlord a security deposit in the amount of \$1,300.00. Both parties provided a copy of the tenancy agreement.

The Tenants submitted that the Landlord is unreasonably withholding permission to allow the Tenants to have an additional roommate or co tenant.

In response, the Landlords testified that the Tenants have an unapproved occupant living in the rental unit. The Landlord does not agree to permit additional occupants. The Landlord testified that they issued a letter to the Tenants that states the occupant is not permitted unless they pay additional rent.

The Tenants testified that they do have a family member living in the rental unit with them.

Analysis

Residential Tenancy Branch Policy Guideline #19 Assignments and Sublet is intended to help the parties to an application understand issues that are likely to be relevant and what information or evidence is likely to assist them in supporting their position. The Guideline provides information regarding the assignment of a tenancy and subletting a tenancy.

An Assignment of a tenancy is the act of permanently transferring a tenant's rights under a tenancy agreement to a third party, who becomes the new tenant of the original landlord. When either a manufactured home park tenancy or a residential tenancy is assigned, the new tenant takes on the obligations of the original tenancy agreement, and is usually not responsible for actions or failure of the original tenant to act prior to the assignment.

In a sublet, the original tenancy agreement remains in place between the original tenant and the landlord, and the original tenant and the sub-tenant enter into a new agreement (referred to as a sublease agreement). Under a sublease agreement, the original tenant transfers their rights under the tenancy agreement to a subtenant. This must be for a period shorter than the term of the original tenant's tenancy agreement and the subtenant must agree to vacate the rental unit on a specific date at the end of sublease agreement term, allowing the original tenant to move back into the rental unit. A landlord must not unreasonably withhold consent if the tenancy agreement is for a fixed term of six months or more.

After considering the testimony and evidence before me, and on a balance of probabilities, I make the following findings;

I find that the Landlord did not breach the Act by unreasonably withholding permission to sublet or assign the rental property. I find that the Tenants are not seeking to assign or sublet the tenancy; they are looking to add a co-tenant to the tenancy agreement, or receive permission for a roommate to live in the unit.

I find that the parties entered into a fixed term tenancy agreement which contains only the names of the applicants in this dispute.

I find that the Landlord has the right to approve of new occupants or co-tenants living on the rental property. There is no obligation under the Act that a Landlord must consent to a request to allow more occupants or co-tenants.

The Tenancy agreement states that the Landlord may terminate the tenancy if the Tenants do not remove unauthorized occupants or guests.

The Parties are encouraged to familiarize themselves with Residential Tenancy Policy Guideline # 8 that provides information regarding material terms of a tenancy. The Guideline can be found on the Residential Tenancy Branch website.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Tenants were not successful with their claim, and since the Landlords were not in breach of the Act, I am not ordering the Landlords to repay the \$100.00 fee that the Tenants paid to make application for dispute resolution.

Conclusion

The Tenant's application was not successful. The Landlord is not under no obligation to consent to a request to allow more occupants or co-tenants.

The Tenants' application is dismissed.

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: December 27, 2017

Residential Tenancy Branch