



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes LAT, LRE, OLC, PSF, FF

Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) filed by the Tenant under the *Residential Tenancy Act* (the “Act”), seeking authorization to change the locks of the rental unit, an Order for the Landlord to comply with the Act, regulation, and tenancy agreement, an Order suspending or setting conditions on the Landlord’s right to enter the rental unit, an Order for the Landlord to provide services or facilities required by the tenancy agreement or law, and recovery of the filing fee.

The hearing was convened by telephone conference call and was attended by the Tenant and two agents for the Landlord (the “Agents”); all of whom provided affirmed testimony. The parties were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the Rules of Procedure; however, I refer only to the relevant facts and issues in this decision.

At the request of the Tenant, a copy of the decision will be mailed to them at the dispute address. At the request of the Agents, a copy of the decision will be e-mailed to them at the e-mail address provided in the hearing.

Preliminary Matters

At the outset of the hearing I identified that the tenancy agreement in the documentary evidence before me lists a different Landlord than the Landlord listed as the Respondent in the Application. In the hearing the Agent confirmed that the name of the Landlord listed on the tenancy agreement is the business name for the company that owns the building. The Agent also provided another name by which the Landlord is known, which closely resembles the Landlord name listed by the Applicant in the Application. Based on this testimony I amended the Application to include the name of the Landlord as listed in the tenancy agreement as well as the corrected name as provided to me by the Agents in the hearing.

The Agents raised a concern regarding the evidence before me stating that they did not receive a copy of the tenancy agreement submitted to the Residential Tenancy Branch (the "Branch") by the Tenant. Despite this testimony, the Agent confirmed that they have their own copy of the tenancy agreement, which was before them in the hearing. Upon questioning, I determined that the Landlord's copy of the tenancy agreement matched the tenancy agreement submitted for consideration by the Tenant. Based on the foregoing I find that regardless of whether the Landlord received a copy of the tenancy agreement from the tenant, they had a copy before them for review and consideration prior to the hearing. As a result, I find that the acceptance of this evidence for consideration in the hearing does not unreasonably prejudice one party or result in a breach of the principles of natural justice and therefore the tenancy agreement submitted by the Applicant is accepted for consideration in the hearing.

The Tenant also withdrew their claim for the Landlord to provide services or facilities required by the tenancy agreement or law. They remain at liberty to reapply for this matter.

Issue(s) to be Decided

Is the Tenant entitled to change the locks of the rental unit, and/or receive an Order for the Landlord to comply with the Act, regulation, and tenancy agreement, or an Order suspending or setting conditions on the Landlord's right to enter the rental unit pursuant to section 70 of the *Act*?

Background and Evidence

The Tenancy agreement in the documentary evidence before me indicates that the one year fixed-term tenancy began October 1, 2017, and both parties agree that the tenancy is ongoing.

The Tenant testified that they believe that someone authorized by the Landlord entered their rental suite without notice or permission in order to fix a smoke detector, however, the Agents for the Landlord deny that this occurred. The Tenant stated that at the time they viewed the rental unit and at the start of their tenancy, the smoke detector in the rental unit did not function and was hanging from the ceiling by electrical wires. The Tenant stated that after moving in, they reattached the smoke detector to the ceiling themselves but it still did not function. Although the Tenant could not provide the date of the occurrence, they testified that at some point thereafter they returned home to find it hanging from the wires again and with a green light now illuminated. The Tenant testified that as the green light was not previously illuminated, they believe someone entered their suite to repair the smoke detector without giving prior notice or obtaining permission.

The Tenant testified that they do not trust the Landlord or agents of the Landlord not to enter their unit without permission and therefore they are seeking authorization to change the locks of the rental unit, and to obtain Orders for the Landlord to comply with the *Act*, regulation, and

tenancy agreement, or suspend or set conditions on the Landlord's right to enter their rental unit.

The Agents testified that neither they, nor anyone authorized by the Landlord, have entered the Tenants suite to complete repairs or for any other purpose since the start of the tenancy. The Agents stated that although there is work ongoing in the building in relation to smoke detectors, no work order has been issued in relation to the Tenant's rental unit and the Tenant's rental unit has not been entered for this or any other purpose. Further to this, the Agents stated that if entrance to a suite is required, they always provide proper notice in accordance with the *Act*. One of the Agents also testified that upon hearing of the Tenant's complaint, they personally called their maintenance employees and contractors and verified that no one had entered the Tenant's suite.

Analysis

Section 29 of the *Act* outlines the restrictions on a landlord's right to enter a rental unit 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).

Although the Tenant testified that someone entered their rental unit on behalf of the Landlord without their permission or prior notice, the Tenant was unable to provide information relating to the date or time of the entry and the Agents denied that this entry occurred. Further to this, the only evidence presented by the Tenant to establish that their suite had been entered is speculative in nature. Based on the foregoing and on a balance of probabilities, I find that the Tenant has failed to establish that the Landlord breached section 29 of the *Act* and their claim seeking authorization to change the locks of the rental unit, and to obtain Orders for the Landlord to comply with the *Act*, regulation, and tenancy agreement, or suspend or set conditions on the Landlord's right to enter the rental unit are therefore dismissed without leave to reapply. As the Tenant was not successful in their Application, I decline to grant them recovery of the filing fee.

Conclusion

The Tenant's Application seeking authorization to change the locks of the rental unit, and to obtain Orders for the Landlord to comply with the *Act*, regulation, and tenancy agreement, or suspend or set conditions on the Landlord's right to enter the rental unit are dismissed without leave to reapply. As stated in the preliminary matters section of this decision, as the Tenant's claim for the Landlord to provide services or facilities required by the tenancy agreement or law was withdrawn, they remain at liberty to reapply for this matter.

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 9, 2018

Residential Tenancy Branch