



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes LRE, LAT, MNDC, ERP

Introduction

On October 1, 2017, the Tenant applied for dispute resolution seeking an order for the Landlord to comply with the Act regarding entry into the rental unit. The Tenant also applied to for emergency repairs regarding an entry door and to restrict the Landlord's access into the unit.

The Tenant appeared at the hearing; however, the Landlord did not. The Tenant testified that he served the application and Notice of Hearing to the Landlord in person on October 12, 2017, at the rental property. The Landlord submitted documentary evidence to the Residential Tenancy Branch in response to the Tenant's application, but failed to attend the hearing. Based on the Tenant's affirmed testimony, I find that the Landlord was served with the Notice of Hearing.

The Tenant was provided with an opportunity to ask questions about the hearing process. He was provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

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

Issues to be Decided

- Is the Tenant entitled to an order for emergency repairs to the rental unit?
- Is the Tenant entitled to an order regarding the Landlords right to enter or access the rental unit?

Background and Evidence

The Tenant testified that the tenancy began in June 2016, as a month to month tenancy. Rent in the amount of \$600.00 is due by the first day of each month. A security deposit of \$300.00 was paid by the Tenant to the Landlord.

The Tenant testified that he rents a 1 bedroom suite in the lower part of a house. He testified that he has a kitchen, bathroom, and bedroom. He testified that he does not share the kitchen or bathroom with the Landlord.

The Tenant testified that he enters the rental unit using the same door as the Landlord. He submitted that at the start of the tenancy there was a door separating the lower unit from the upper unit. He testified that the Landlord removed the door to facilitate access to tradespeople who were working in the house. The Tenant testified that the Landlord has occasionally entered his rental unit without permission or without issuing proper written notice for entry.

The Tenant testified that he asked the Landlord to replace the door, and when the Landlord failed to comply, the Tenant rehung the door, and placed a new lock on the door. The Tenant submitted that he has not provided the Landlord a key to the new lock. The Tenant testified that he believes the Landlord has by passed the lock by prying open the door.

The Tenant is seeking an order for the Landlord to comply with the legislation regarding rights to enter the rental unit.

The Tenant is seeking the recover the cost of application against the Landlord.

Analysis

Section 28 of the Act states a Tenant is entitled to quiet enjoyment including, but not limited to, rights to the following:

- (a) Reasonable privacy;
- (b) Freedom from unreasonable disturbance;
- (c) Exclusive possession of the rental unit subject only to the landlord's right to enter the rental unit in accordance with section 29 [landlord's right to enter rental unit restricted];
- (d) Use of common areas for reasonable and lawful purposes, free from significant interference.

Section 29 states 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.

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The Landlord removed the door that separates the Tenant's rental unit from the rest of the house for the purpose of entering the Tenant's rental unit without seeking permission or giving notice.

I find that the Landlord is obligated under section 29 of the Act to seek and receive permission from the Tenant prior to entering the rental unit. If permission is not granted the Landlord must give the Tenant at least 24 hours written notice for a reasonable purpose.

The Landlord is cautioned that the Tenant may seek future compensation from the Landlord if the Landlord is found to be in breach of his obligations regarding his rights of entry.

The Landlord has a right to have a copy of the key to the rental unit for emergency purposes. The Tenant is ordered to provide the Landlord a copy of the key to the Tenant's entry door.

Section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. As the Tenant was successful with his application, I

order the Landlord to repay the \$100.00 fee that the Tenant paid to make application for dispute resolution. I authorize the Tenant to withhold \$100.00 from one future rent payment.

Conclusion

The Landlord failed to attend the hearing.

The Landlord removed the door that separates the Tenant's rental unit from the rest of the house for the purpose of entering the Tenant's rental unit without permission or notice.

The Landlord is ordered to comply with section 29 of the Act regarding right of entry. The Landlord is cautioned that the Tenant may seek compensation from the Landlord if the Landlord is found to be in breach of his obligations regarding his rights of entry.

I authorize the Tenant to withhold \$100.00 from one future rent payment for the cost of the Application.

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 02, 2018

Residential Tenancy Branch