



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KIM GIN & SONS HOLDINGS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, FF

Introduction

This matter dealt with an application by the Tenants for the Landlord to comply with the Act, regulations and tenancy agreement and to recover the filing fee for this proceeding.

The Tenants' Counsel said they served the Landlord with the Application and Notice of Hearing (the "hearing package") by registered mail on December 28, 2017. Based on the evidence of the Tenants, I find that the Landlord was served with the Tenants' hearing package as required by s. 89 of the Act and the hearing proceeded with all parties in attendance.

Issues(s) to be Decided

1. Has the Landlord complied with the Act, regulations and tenancy agreement?
2. Are the Tenants entitled to recover the filing fee from the Landlord?

Background and Evidence

This tenancy started in March, 2015 as a 1 year fixed term tenancy and then continued on a month to month basis. Rent is \$1,025.00 per month payable on the 1st day of each month. The Tenant paid a security deposit of \$515.00 at the start of the tenancy.

The Tenants' Counsel said that the Tenants have repeatedly told the Landlord and his agents that the tenant in unit 505 is conducting illegal activities which are disturbing the Tenants quiet enjoyment of their unit, unreasonable disturbing them and the Tenants feel unsafe in the rental complex. The Tenants' Counsel requested that the Landlord take action to correct this situation by evicting the tenant in unit 505. Counsel continued to say that the Landlord has not complied with the Act because of the Landlord's inaction in dealing with the tenant in unit 505 has adversely affected her clients the Tenants in unit 506. Counsel requested the Landlord to be ordered to comply with the Act and evict the tenant in unit 505.

The Landlord said he has issued a 1 Month Notice to End Tenancy for Cause, dated December 20, 2017, to the tenant in unit 505 and the hearing is scheduled for March 1, 2018. The Landlord said he has complied with the Act, regulations and tenancy agreement as he has taken action to restore the quiet enjoyment to the rental complex.

The Tenants' Counsel agreed that the Landlord has now complied with the Act after many months of complaints from tenants in the building. Counsel continued to say the Landlord has been slow in dealing with the tenant in unit 505 and it has had a detrimental affect on the Tenants. The Tenants Counsel said they will be following what happens and may be filing an application for compensation against the Landlord for the Tenants' loss of value in their tenancy due to the actions of the tenant in unit 505.

Analysis

The Tenants and the Tenants Counsel said they agree that the Landlord has now complied with the Act, regulation and tenancy agreement by the Landlord taking action to resolve the situation in unit 505. Consequently, I find the Landlord has complied with the Act, regulation and tenancy agreement and the Tenants' application has been satisfied at this point in time. The Tenants are at leave to reapply if the situation in unit 505 is not resolved or they choose to make a claim against the Landlord.

As the Tenants have been successful in this matter I order the Tenants to recover the \$100.00 filing fee for this proceeding by deducting it from the March, 2018 rent. The March 2018 rent is adjusted to \$925.00.

Conclusion

I find the Landlord has complied with the Act, regulations and tenancy agreement.

The Tenants' March 2018 rent payment is adjusted to \$925.00 so that the Tenant can recover the filing fee of \$100.00 for this proceeding from the Landlord.

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: February 14, 2018

Residential Tenancy Branch