



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, FF

Introduction

The tenant applies to challenge the imposition of increased rent for having an additional occupant in his rental unit and to obtain an extra key for that occupant.

Both parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

Issue(s) to be Decided

Can the tenant's wife occupy the premises with him? Can the landlord demand more rent in that case?

Background and Evidence

The rental unit is a one bedroom apartment in a 35 unit, three storey apartment building.

There is a written tenancy agreement. The tenancy started in April 2013. Currently the monthly rent is \$955.00. The landlord holds a \$430.00 security deposit.

The tenant was married in August 2017 and as of September his wife is living with him in the apartment. He notified the landlord of the new occupant by letter only at the end of August though he says he gave the landlord verbal notice of his intention long before.

The tenant says that the landlord wants \$150.00 more per month to permit the tenant's wife to reside there. He considers that unfair.

Mr. J.K. is the owner of the building and has been for thirty years. He says that normally in these circumstances he meets and assesses the new occupant then prepares a new tenancy agreement to include her and increases the rent by \$50.00 or \$100.00 per month.

He has the prospective occupant fill in a form that he uses for new tenants in order to acquire some background knowledge to help him decide whether to grant approval or not.

Analysis

The tenancy agreement contains a number of provisions concerning “occupants.”

Clause 6 provides:

6. **RENT AND FEES.** Rent must be received by the landlord on or before the first calendar day of each month, unless the parties agree in writing in advance to a different date.
- | | | | | | | |
|----------------------------|----|-----------------------------|-----------|--------------------------------|-------------------------------|--------------------------------------|
| Rent | \$ | <u>860.00</u> | per | <input type="checkbox"/> month | <input type="checkbox"/> week | <input type="checkbox"/> other _____ |
| Parking Fee(s) | \$ | <u>20.00</u> | (_____) | Specify | | |
| Other Fee(s) | \$ | <u> </u> | (_____) | Specify | | |
| TOTAL RENT AND FEES | \$ | <u>880.00</u> | | | | |
- Subject to clause 13, Additional Occupants, the tenant agrees that for each additional tenant or occupant not named in clause 1 or 2 above, the rent will increase by \$ _____ per month, effective from the date of his occupancy. The acceptance by the landlord of any additional occupant does not otherwise change this Agreement or create a new tenancy.

Clause 13 provides

- 13. ADDITIONAL OCCUPANTS.** Only those persons listed in clauses 1 or 2 above may occupy the rental unit or residential property. A person not listed in 1 or 2 above who, without the landlord's prior written consent, resides in the rental unit or on the residential property in excess of fourteen cumulative days in a calendar year will be considered to be occupying the rental unit or residential property contrary to this Agreement. If the tenant anticipates an additional occupant, the tenant must apply in writing for approval from the landlord for such person to become an authorized occupant. Failure to obtain the landlord's written approval is a breach of a material term of this Agreement, giving the landlord the right to end the tenancy on proper notice.

(original incomplete)

Clause 19 provides:

- 19. OCCUPANTS AND INVITED GUESTS.** The landlord must not stop the tenant from having guests under reasonable circumstances in the rental unit. The landlord must not impose restrictions on guests and must not require or accept any extra charge for daytime visits or overnight accommodation of guests. If the number of occupants in the rental unit is unreasonable, the landlord may discuss the issue with the tenant and may serve a notice to end a tenancy. Disputes regarding the notice may be resolved by applying for dispute resolution under the Act.

(original incomplete)

From these terms I discern that if the tenant wishes to have another occupant in the rental unit, clause 13 requires that he apply in writing for the landlord's approval. In my view it is implicit that the landlord's approval may not be unreasonably withheld. The

tenant's letter of August 31 is not such a request. It is a notice that his wife will be moving in.

From these terms I discern that the parties have contemplated the idea of charging more rent for additional occupants and have agreed that no amount will be charged for additional occupants. That is the plain reading of clause 6. The clause reserves no power to the landlord to arbitrarily charge any amount for an additional occupant.

Since the tenancy agreement permits additional occupants, on terms, it is implicit that the landlord will provide any approved occupant with the necessary key(s). It is reasonable that any cost of doing so would be for the account of the tenant.

Conclusion

The tenant must obtain approval for his wife to occupy the rental unit. That approval may not be unreasonable refused. The landlord may not increase the rent but may charge for the cost of an additional key(s).

The tenant's application is allowed in part. I authorize him to recover \$50.00 of the \$100.00 filing fee and I authorize him to reduce his next rent due by \$50.00 in full satisfaction of that award.

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 27, 2018

Residential Tenancy Branch