



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OLC, RI, RR, ERP, LA

Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to change the locks to the rental unit pursuant to section 70;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make emergency repairs to the rental unit pursuant to section 33;
- a monetary order for the cost of emergency repairs to the rental unit pursuant to section 33;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- a determination regarding their dispute of an additional rent increase by the landlord pursuant to section 43;

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed receipt of the tenant's notice of hearing package and the submitted documentary evidence provided by the other party. As such, I find that both parties have been sufficiently served as per section 90 of the Act.

Preliminary Issue(s)

At the outset it was clarified with both parties that the tenant seeks an order cancelling the 10 Day Notice dated February 24, 2018; an order for the landlord to comply with the

Act, regulations or tenancy agreement; specifically to adhere to a verbal tenancy agreement where the monthly rent is \$1,650.00 and that the utility costs were shared. Extensive discussions with both parties shows that the tenants' remaining requests were duplicates of the above noted requests and that the remaining issues noted were not part of the tenants' original application for dispute. As such, the hearing proceeded on:

tenants seeking an order cancelling the 10 Day Notice dated February 24, 2018; an order for the landlord to comply with the Act, regulations or tenancy agreement; specifically to adhere to a verbal tenancy agreement where the monthly rent is \$1,650.00 and that the utility costs were shared.

The remaining issues were cancelled by the tenants as unrelated.

Issue(s) to be Decided

Are the tenants entitled to an order cancelling the 10 Day Notice?

Are the tenants entitled to an order for the landlord to comply with the Act, regulations or tenancy agreement?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

Both parties confirmed in their direct testimony that this tenancy began on February 19, 2018 on a fixed term tenancy ending on August 31, 2018 as per a signed tenancy agreement dated March 3, 2018.

Both parties agreed that the landlord served the tenants with the 10 Day Notice dated February 24, 2018 in person on February 24, 2018. The 10 Day Notice sets out that the tenants failed to pay rent of \$267.00 that was due on February 19, 2018 and provides for an effective end of tenancy date of March 5, 2018. Both parties agreed that the tenants paid \$267.00 on March 5, 2018 and that the landlord had reinstated the tenancy.

The tenants also seek a finding that the landlord comply with the Act, regulations or tenancy agreement in that a verbal agreement was made with the landlord for a monthly rent of \$1,650.00 as opposed to a signed tenancy agreement dated March 3, 2018 that stipulates a monthly rent of \$1,700.00.

The tenants also seek a finding that the same verbal agreement made speaks to shared utilities as opposed to the landlord's claim on the signed tenancy agreement that the tenants pay 100% of the utilities.

In these cases, the tenants rely on the submitted copy of an online ad advertising of the rental unit for \$1,650.00 plus 50% of utilities. The landlord disputes these claims stating that the online ad was correct, but that both parties had negotiated a change as per the signed agreement dated March 3, 2018. The tenants agreed that the agreement was made, but that it was under duress as the landlord had failed to provide a signed agreement to the tenants within 15 days of starting the tenancy.

Analysis

Pursuant to section 46 of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice.

In this case, both parties agreed that the landlord serve the tenants with the 10 Day Notice dated February 24, 2018. Both parties also agreed that the tenants paid the landlord the outstanding rental arrears of \$267.00 on March 5, 2018. Both parties confirmed in their direct testimony that the landlord reinstated the tenancy by accepting the \$267.00 on March 5, 2018. As such, the tenants' application to cancel the 10 Day Notice dated February 24, 2018 is granted. The 10 Day Notice dated February 24, 2018 is set aside. The tenancy shall continue.

I accept the evidence of both parties and find on a balance of probabilities that the tenants have failed to establish that a verbal agreement was made for monthly rent to be \$1,650.00 and for "shared utilities" with the landlord. Although the tenants provided a copy of an online advertisement, the landlord has disputed these claims and relies upon the submitted copy of a completed signed tenancy agreement dated March 3, 2018. The tenants acknowledged agreeing to and signing this document. As such, this portion of the tenants' application is dismissed.

Conclusion

The tenants' application to cancel the 10 Day Notice dated February 24, 2018 is granted. The tenants remaining portion of their 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: April 05, 2018

Residential Tenancy Branch