



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: AAT LAT LRE OLC PSF

Introduction

The applicant who claims to be a tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:15 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for September 11, 2018 at 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony/affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord said they received the Application for Dispute Resolution hearing package by email. Although this is not service pursuant to section 89 of the Act, I find the Application was sufficiently served for the purposes of this hearing pursuant to section 71(2)(b) of the Act. The tenant requests pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) An Order that the landlord give her legal access to the building and replace her lock on her door pursuant to sections 30 and 31;
- b) An Order allowing her to change locks to her rental unit pursuant to section 31;
- c) An Order that the landlord ensure her privacy and reasonable enjoyment pursuant to section 28 by repairing her door and locks;
- d) An Order restricting the landlord's access to her suite pursuant to section 29; and
- e) An Order that the landlord obey the Act by giving her legal Notices of failure to pay rent or entry into her suite.

Issue(s) to be Decided:

Has the tenant proved on the balance of probabilities that the landlord has failed to repair the lock on her door, failed to give her legal access and failed to protect her right to peaceful enjoyment contrary to sections 28, 29, 30 and 31?

Background and Evidence

Only the landlord attended the hearing and was given opportunity to be heard, to present evidence and to make submissions. She said the applicant never was a tenant. She and a companion were trying to gain entry into the building by trying doors until they found one open. They found one unlocked and moved in. The landlord called the Police and the applicant told them that this was a matter for the Residential Tenancy Branch.

However, the Police viewed the videos of the couple sneaking into the building and trying doors until they found one open. The Police made them leave for they were trespassers and not tenants. On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

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Analysis:

Section 28 of the Act sets out the tenant's right to quiet enjoyment:

28 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.

However, I find insufficient evidence to support the applicant's application. I find the landlord's evidence credible that the applicant never was a tenant and the Act applies to obligations between landlords and tenants.

Conclusion:

I dismiss the Application of this applicant in its entirety without leave to reapply.

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: September 11, 2018

Residential Tenancy Branch