



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC LRE

Introduction

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

- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement
- to suspend or set conditions on the Landlord's right to enter the rental unit

Both sides were represented at the hearing. All parties provided testimony and were given a full opportunity to be heard, to present evidence and to make submissions. Both parties confirmed receipt of each other's evidence, and no issues were raised with service of these documents.

I have reviewed all oral and written evidence before me that met the requirements of the 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

- Are the Tenants entitled to an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement?
- Should there be conditions on the Landlord's right to enter the rental unit?

Background and Evidence

The Tenant stated that she is not happy with how the Landlord is treating her. The Tenant pointed out that on March 28 and 29, 2019, the Landlord showed up to the house and started knocking on the door and taking photos. The Tenant stated that the Landlord will sit out front in his car, shine a light at the house, and come to the house to enter, without proper notice. The Tenant stated that on February 25, 2019, the Landlord showed up late, after arranging a time to enter the premises. The Tenant stated that the Landlord will continually be rude to them. The Tenants stated they are unhappy that the Landlord has not dealt with the potential drug use in the duplex next door.

The Landlord denies that he has shown up, taken photos, or been rude to the Tenants. The Landlord expressed that he has no reason to sit out front the house in his car, as the Tenant has alleged. The Landlord stated that the municipality has provided him some formal written notices with respect to garbage on the property and also with respect to a very high water bill. The Landlord stated that one of the reasons he had to attend the property was to explore and determine if there was a water leak that was causing the high water bill. The Landlord acknowledges that he was slightly late for this site visit, but insisted he gave proper written notice that he would be coming. The Landlord feels the Tenant is exaggerating the issues.

Analysis

A party that makes an application against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities.

When two parties to a dispute provide equally plausible accounts of events or circumstances related to a dispute, the party making the claim has the burden to provide sufficient evidence over and above their testimony to establish their claim.

According to the Rules of Procedure, evidence in the Dispute Resolution Proceeding must be presented by the party who submitted it. In this case, the Tenant uploaded some documents, and despite being reminded to point out what was relevant, and why, she did not refer to explain any of her documentary evidence. Rules of Procedure state:

7.4 Evidence must be presented

Evidence must be presented by the party who submitted it, or by the party's agent.

In this case, the Tenant failed to present any of her evidence and only spoke to general issues she is having with the Landlord. During the hearing, the Tenant relied on oral testimony only. Further, the Landlord also did not speak to or present any of his evidence. Both parties relied solely on their oral testimony, and given neither party presented or explained any of their documentary evidence, I will only rely on the testimony provided at the hearing.

I find it important to note that the Landlord, when requiring access to the rental unit, must give proper written notice at least 24 hours prior to entering. I note the following portion of the Act:

Landlord's right to enter rental unit restricted

29 (1) *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.*

(2) A landlord may inspect a rental unit monthly in accordance with subsection (1) (b).

In this case, although the Landlord remains obligated to comply with section 29 of the Act, I find the Tenant has provided insufficient evidence that the Landlord has failed to comply with this section such that I must make an order for the Landlord to comply at this time.

The Tenant also did not explain what Sections of the Act have been breached or under which Sections she is requesting that the Landlord comply with. The Landlord stated he has only attended the residence with proper notice, and to explore complaints from the municipality. Otherwise, the parties have provided differing and competing testimony on

this matter. The Landlord denies that he has harassed or acted in the manner the Tenant has alleged. Overall, I find the Tenant has failed to sufficiently establish the basis for her claim and to meet the burden of proof incumbent on her. As such, I dismiss the Tenants' Application, without leave to reapply.

Conclusion

The Tenant's application is dismissed, in full, 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: April 15, 2019

Residential Tenancy Branch