



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      AS

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for an order allowing the tenant to assign or sublet because the landlord's permission has been unreasonably withheld pursuant to section 65.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

As both parties were present service of documents was confirmed. The landlord confirmed receipt of the tenant's application for dispute resolution and evidentiary materials and said they had not served any materials themselves. Based on the testimonies I find that the landlord was served with all materials in accordance with sections 88 and 89 of the *Act*.

### Issue(s) to be Decided

Should the landlord be ordered to allow the tenant to assign or sublet the rental unit?

### 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 are reproduced here. The principal aspects of the tenant's claim and my findings around each are set out below.

The parties agree on the following facts. This periodic tenancy began in May 2016. The current monthly rent is \$619.00 payable on the first of each month. The tenant has

been a resident of the rental building since 2007, originally in a different unit and in the current suite under this tenancy agreement since May 2016.

The tenant testified that they will be attending school out of town beginning in the autumn. The tenant has sought permission to sublet the rental unit during their coursework with the intention of returning during school breaks and retaking the tenancy at the end of their three year program. The tenant submits that they have concerns about relocating permanently and wish to retain the rental unit in the event that school does not work out. The tenant testified that they have been allowed to sublet the rental unit in the past, are aware of other occupants of the building subletting their suites and were initially told by the landlord that their request would be considered.

The landlord has denied the tenant authorization to sublet the rental unit.

### Analysis

Section 34(2) of the *Act* provides that a landlord may not unreasonably withhold consent to sublet a tenancy if it is a fixed term tenancy agreement for 6 months or more. The parties acknowledge that this is a month-to-month tenancy and this portion of the *Act* does not apply to the matter at hand.

While the tenant makes various submissions I find that none have sufficient weight to find that the landlord is unreasonably withholding consent. While I accept the tenant's evidence that they have been allowed to sublet in the past and the landlord has provided consent to other occupants, I do not find that obligates the landlord to consent to subleases in all circumstances.

I find that the communication between the tenant and the previous building manager does not constitute a promise or representation that would give rise to an estoppel argument. The building manager simply states that the tenant's request to sublet the suite will be discussed with the landlord. I do not find that the communication can be construed as a representation on which the tenant detrimentally relied.

I do not find the tenant's submissions that they require this tenancy to continue while attending school, in case that they are unable to continue with their studies to be persuasive. While I accept that the tenant feels concerns about relocating and returning to school after over a decade of residing in the same building, I do not find that this gives rise to a basis for allowing the tenant to sublease the suite. Trepidation and concern is an intrinsic part of making life changes such as enrolling in school and moving to a new city. The *Act* does not allow a tenant the right to sublease their suite

simply because they feel anxiety about making life changes. Individuals must sometimes make life changes, embracing them and all its uncertainty. I do not find it unreasonable for a landlord to refuse to allow a tenant to sublease a suite so that they retain a safety net should they fail at their endeavor.

Based on the totality of the evidence I find that there is no basis for an order that the landlord give consent to allow the tenant to sublease their rental suite. Consequently, I dismiss the tenant's application.

### Conclusion

The tenant's application is dismissed 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 29, 2019

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Residential Tenancy Branch