



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ASIA PACIFIC INVESTORS LTD. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes

AS, FFT

Introduction

On April 7, 2019, the Tenant applied for a Dispute Resolution proceeding seeking to be allowed to assign or sublet pursuant to Section 65 of the *Residential Tenancy Act* (the "Act") and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Tenant attended the hearing and M.D. attended the hearing as an agent for the Landlord. All in attendance provided a solemn affirmation.

The Tenant advised that she served the Notice of Hearing package and her evidence to the Landlord by hand, and M.D. confirmed that he received these documents. In accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord was served the Notice of Hearing package and evidence.

M.D. confirmed that he did not submit any evidence for consideration.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Tenant entitled to assign or sublet the rental unit?
- Is the Tenant entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

Both parties agreed that the tenancy started on August 1, 2017 and is currently a periodic tenancy. Rent was established at \$624.00 per month, due on the first of each month. A security deposit of \$300.00 was paid.

The Tenant advised that she was seeking permission to sublet the rental unit for half of the year, and that she had been able to do so in the past. However, she contends that the Landlord did not give her permission to sublet the rental unit upon her most recent request. She referenced the tenancy agreement, which addressed the reasonableness of permission to sublet, to support her position. In the alternative, she requested that she be allowed to have a roommate. As well, she took issue with the Landlord's letter that advised her that she would not be allowed to give her keys to guests.

M.D. advised that the Landlord would not approve the Tenant to sublet the rental unit. He stated that he allowed the Tenant to sublet in the past as a favour to her; however, the Landlord was not happy with this decision and expressly stated that subletting in the future would not be allowed. M.D. provided a letter to the Tenant advising her of this, and that a roommate would not be allowed either.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following guidelines that are applicable to this situation. My reasons for making this decision are below.

Policy Guideline # 19 states that "A tenant may assign or sublet their interest in a tenancy agreement only with the prior written consent of the landlord" and that "In the case of a fixed term tenancy agreement under the Residential Tenancy Act, the landlord cannot unreasonably withhold consent if there are six months or more remaining in the term." Furthermore, it states that "In the case of a periodic tenancy, there would need to be an agreement that the sublet continues on a month-to-month basis, less one day, in order to preserve the original tenant's interest in the tenancy."

As discussed during the hearing, the Tenant was advised that she must obtain the Landlord's written consent to allow for a sublet, and as she is in a periodic tenancy, the Landlord is under no obligation to agree to this. Moreover, without this permission, the Tenant may jeopardize her tenancy if she did sublet the rental unit.

Furthermore, she was advised that as she was the only Tenant listed on the tenancy agreement, should she get a roommate without the Landlord's written consent, she may also jeopardize her tenancy. Both parties were advised that the Landlord cannot restrict the Tenant from having guests in the rental unit. However, if the Landlord determines that these people are not guests, but people who have moved into the rental unit, this may jeopardize the tenancy.

Finally, both parties acknowledged that the Tenant is allowed to provide her keys to whomever she chooses. However, this should be done with caution as she would be responsible for any incidents or issues that her guests may be responsible for.

As the Landlord has not breached the *Act*, I make no Orders with respect to the Tenant's Application. As well, as the Tenant was not successful in her claims, I find that the Tenant is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

Based on my findings above, I dismiss the Tenant's Application in its entirety.

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: May 28, 2019

Residential Tenancy Branch