



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, LRE, MNDCT, FFT

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution, made on March 26, 2019 (the "Application"). The Tenants applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- dispute a rent increase
- an order suspending or restricting the Landlord's right to enter
- a monetary order for compensation; and
- an order granting recovery of the filing fee.

The Tenant R.D. as well as the Landlord attended the hearing at the appointed date and time, and provided affirmed testimony.

The Tenant testified that he served his Application and documentary evidence package to the Landlord by mail within a week after making his Application. The Tenant also served the Landlord with further evidence on April 28, 2019. The Landlord confirmed receipt of both packages. The Landlord testified that she served the Tenants with her documentary evidence by posting it to the Tenants' door on May 3, 2019. The Tenant confirmed receipt of the Landlord's evidence on May 7, 2019. Pursuant to section 71 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. 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

Preliminary Matters

The Tenants have applied to dispute a rent increase as well as for monetary compensation in the amount of \$1,700.00 relating to a rent increase which took effect in January 2019. The Tenant's stated that the Landlord increased the rent from \$1,800.00 to \$1,900.00, which the Tenant stated was more than what was allowable under the *Act*. During the hearing the parties mutually agreed to the Tenants deducting \$429.20 from one future rent payment to compensate the Tenant for the overpayment of rent. The hearing continued based on the following claims;

Issue(s) to be Decided

1. Are the Tenants entitled to an order suspending or restricting the Landlord's right to enter, pursuant to Section 70 of the *Act*?
2. Are the Tenants entitled to the recovery of the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The parties testified and agreed to the following; the tenancy began on December 1, 2016. Prior to the rent increase, the Tenants paid \$1,800.00 to the Landlord on the first day of each month. The Tenants paid a security deposit in the amount of \$900.00 which the Landlord continues to hold.

The Tenants have claimed for an order suspending or restricting the Landlord's right to enter the rental unit.

The Tenant testified that the Landlord has recently listed the rental property for sale and that the Tenants are fearful that the Landlord will enter the rental unit to conduct showing to potential buyers without providing the Tenants with sufficient notice. The Tenant testified that the Landlord has not yet entered the rental unit; however, they have had concerns about the Landlord attending the property unannounced and making comments about the state of the yard.

In response, the Landlord indicated that she has not entered the rental unit and denies accessing the Tenants' yard. The Landlord indicated that she has a friend who lives nearby and happened to walk past the rental unit, at which point the Landlord noticed the lawn needed to be cut. The Landlord stated that she would abide by the Tenancy Act and provide the Tenants notice prior to any entry being made to the rental unit.

Analysis

During the hearing the parties mutually agreed to the Tenants deducting \$429.20 from one future rent payment in satisfaction of the Tenants' claims. This settlement agreement was reached in accordance with section 63 of the *Act*. As such, I find that the Tenants are entitled to monetary compensation in the amount of \$429.20 which satisfied their claim to dispute the rent increase as well as a request for monetary compensation.

The Tenants have also applied to suspend or restrict the Landlord's right to enter the rental unit. I accept that the parties agreed that the Landlord has not entered the rental unit contrary to the *Act*. As such, I dismiss the Tenant's claim with leave to reapply should the Landlord breach the *Act*.

I suggest the parties review Section 29 of the *Act* which outlines the requirement which must be met prior to the Landlord entering the Tenants' rental unit;

Section 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).*

As the Tenants were partially successful with their Application, I find that they are entitled to the return of the \$100.00 filing fee paid for the Application.

Pursuant to section 67 of the *Act*, I find the Tenants are entitled to a monetary award in the amount of \$529.00 based on a mutual settlement and the return of the filing fee. I order that the Tenants deduct the amount of \$529.20 from one (1) future rent payment.

Conclusion

The Tenants were partially successful with their Application. I authorize the Tenants to deduct \$529.20 from one (1) future rent payment.

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 14, 2019

Residential Tenancy Branch