



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Code CNC LRE FF

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution, made on April 12, 2019 (the "Application"). The Tenants applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order cancelling a One Month Notice to End Tenancy for Cause, dated April 7, 2019 (the "One Month Notice"),
- an order setting conditions on the Landlord's right to enter the rental unit; and
- an order granting recovery of the filing fee.

The Tenants E.R., C.O., and J.O. attended the hearing. The Landlord attended the hearing and was assisted by M.K., legal counsel. E.R., J.O., and the Landlord provided affirmed testimony.

The parties confirmed receipt of the Application package and documentary evidence to be relied upon. 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 a full 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, and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

During the hearing, the parties agreed the One Month Notice was withdrawn by the Landlord. A copy of a letter from M.K. to E.R., dated May 17, 2019, was submitted in support. Therefore, I consider the One Month Notice to be withdrawn. The tenancy will continue until otherwise ended in accordance with the *Act*.

Issue to be Decided

1. Are the Tenants entitled to an order setting conditions on the Landlord's right to enter the rental unit?
2. Are the Tenants entitled to recover the filing fee?

Background and Evidence

The parties agreed the tenancy began roughly 7 years ago. Currently, rent is due in the amount of \$890.00 per month. The Tenants paid a security deposit of \$400.00, which the Landlord holds.

On behalf of the Tenants, R.E. and J.O. testified that on January 31, 2019, the Landlord knocked "aggressively" on the door between the shared laundry room, then entered the rental unit without permission. R.E. and J.O. testified that the Landlord then proceeded through the rental unit and into the garage.

The Landlord testified that she was responding to noise emanating from the rental unit, which was denied by J.O. The Landlord testified that J.O. pushed her during the incident.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 29 of the *Act* permits a landlord to enter a rental unit at least 24 hours and not more than 30 days before the entry, or without notice if an emergency exists. In this case, I am satisfied that the Landlord entered the Tenants' rental unit as described by R.E. and J.O. However, I find this one incident was not sufficient to place special conditions on the Landlord's right to enter the rental unit under section 29 of the *Act*.

However, the Landlord is cautioned to ensure that all entries into the Tenants' rental unit are made in accordance with the *Act*. M.K. may be able to provide the Landlord with some guidance in that regard. This aspect of the Tenants' Application is dismissed.

I find the Application was necessary to respond to the One Month Notice, even though it was subsequently withdrawn. Therefore, I find the Tenants are entitled to recover the \$100.00 filing fee paid to make the Application. I order that \$100.00 may be deducted from a future rent payment at the Tenants' discretion.

Conclusion

The Tenants' Application is dismissed, without leave to reapply. However, the Tenants remain entitled to recover the filing fee paid to make the Application as described above.

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 30, 2019

Residential Tenancy Branch