



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC

Introduction

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

- an Order for the landlord to comply with the *Act*, regulations, and/or the tenancy agreement pursuant to section 62 of the *Act*.

Both parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord's agent L.M. attended and spoke on behalf of the landlord.

As both parties were present, service of documents was confirmed. The landlord's agent testified that she was in receipt of the tenant's Notice of Dispute Resolution Proceeding for this hearing. The tenant confirmed that she did not submit any evidence for this hearing. Based on the undisputed testimonies of the parties, I find that the landlord was served with the notice of this hearing in accordance with section 89 of the *Act*.

The landlord's agent testified that she had posted her evidentiary materials to the tenant's rental unit door. The tenant denied receipt of the landlord's evidence package. The landlord's agent acknowledged that the tenant was reported to have entered into hospital shortly after the evidence was posted, and that it was quite possible that the tenant did not receive the package. As such, I advised the parties that I would only consider the documentary evidence submitted by the landlord that was already confirmed to be in the possession of the tenant, such as rent receipts, and that any of the other documents, including a letter to the tenant from the landlord's agent dated March 7, 2019 and a written submission of the landlord's agent regarding the issues in

this dispute, would not be considered. However, I advised the parties that the landlord's agent could provide her verbal testimony on these two documents as her testimony would be available for cross-examination by the tenant during the hearing.

Issue(s) to be Decided

Should the landlord be ordered to comply with the *Act*, regulations, and/or tenancy agreement?

Background and Evidence

The tenant submitted an Application for Dispute Resolution requesting an Order for the landlord to comply with the *Act*, regulation, and/or tenancy agreement.

The tenant testified that she submitted the Application on April 4, 2019 as the landlord had refused to accept her rent payments for March and April 2019, after the tenant claimed the landlord reinstated the tenancy agreement by accepting rent payment for February 2019 after a prior arbitration decision which granted the landlord an Order of Possession for the rental unit (file number noted on the cover sheet of this Decision).

The tenant testified that since submitting her Application, the landlord has now accepted her rent payment for April 2019 and acknowledged the reinstatement of the tenancy. The tenant testified that she made a partial payment for her May 2019 rent and was going to pay the outstanding amount of \$250.00 by May 22, 2019 so that her rent would be paid in full. As such, the tenant confirmed that there are currently no issues pertaining to the landlord's refusal to accept payment for rent, which was the basis of the tenant's Application for this dispute hearing.

The tenant noted other issues of concern pertaining to mail box access and storage locker access, however, I explained to the tenant that this was not included in the tenant's Application for this hearing and that no evidence had been submitted by the tenant that she had raised these concerns with the landlord prior to this hearing. Therefore, I informed the tenant that she was at liberty to pursue filing an Application for Dispute Resolution for other grounds in future if needed, but that those would not be considered today as they were set out in her Application for today's hearing.

The landlord's agent acknowledged that there had been a misunderstanding regarding the end of tenancy and circumstances surrounding the Order of Possession granted through the prior arbitration decision, but that the landlord had accepted the

reinstatement of the tenancy and has been making efforts to work with the tenant on documenting the current tenancy in a written tenancy agreement.

Analysis

Section 62(3) of the *Act* provides that an arbitrator may make any order necessary to give effect to the rights, obligations and prohibitions under this *Act*, including an order that a landlord or tenant comply with this *Act*, the regulations or a tenancy agreement.

In this matter, the tenant confirmed that the landlord has now accepted her rent payments and acknowledged the reinstatement of the tenancy.

Therefore, as the issue for which the tenant filed the Application for Dispute Resolution has now been resolved between the parties, I do not find that there are any grounds in this current matter to issue an Order for the landlord to comply. As such, the tenant's application is dismissed.

Conclusion

The tenant's application is dismissed.

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 21, 2019

Residential Tenancy Branch