



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PEMBERTON HOLMES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, PSF, FFT

Introduction

On May 23, 2019, the Tenants applied for a Dispute Resolution proceeding seeking an Order for the Landlord to comply pursuant to Section 62 of the *Residential Tenancy Act* (the “*Act*”), seeking an Order to provide services or facilities pursuant to Section 62 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Tenants attended the hearing. As well, M.R. and E.H. attended the hearing as agents for the Landlord. All in attendance provided a solemn affirmation.

The Tenants advised that they served a Notice of Hearing and evidence package to the Landlord by hand on May 23, 2019 and M.R. confirmed receipt of this package. In accordance with Sections 89 and 90 of the *Act*, and based on this undisputed testimony, I am satisfied that the Landlord was served the Notice of Hearing and evidence package.

M.R. advised that they did not submit any evidence for consideration on this file.

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

- Are the Tenants entitled to an Order that the Landlord comply?
- Are the Tenants entitled to an Order that services or facilities be provided?
- Are the Tenants 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.

All parties agreed that the tenancy started on February 1, 2019 and the rent was established at \$1,650.00 per month, due on the first of each month. A security deposit of \$825.00 was paid.

Both parties agreed that a move-in inspection report was conducted on January 31, 2019 and that the Tenants signed this report indicating that the rental unit was in acceptable condition. However, the Tenants advised that upon further inspection, the oven was filthy despite assurances by the Landlord that the rental unit was professionally cleaned.

E.H. advised that the Tenants brought up the issue of the oven two weeks after they moved into the rental unit. However, she stated that the person conducting the inspection thoroughly walks tenants throughout each rental unit and she reiterated that the Tenants signed and agreed that the rental unit was in acceptable condition.

The Tenants advised that when they moved into the rental unit, the heating appliance was blowing cold air, so they informed the Landlord multiple times about this; however, the responses they received were not favourable and condescending. They stated that they were without heat for three days, but the issue has been rectified since.

E.H. advised that she was aware of the heating issue, but she confirms that this has been addressed and fixed. She apologized for any rudeness displayed by any staff with respect to this issue.

The Tenants stated that they were not given a covered parking spot and their car was buried in snow for days. As well, the building caretakers did not shovel the snow. As a result, the Tenants had to wait for the snow to melt to access their car.

M.R. advised that there are covered parking spaces available, but the Tenants were not specifically assigned a covered parking spot. This is confirmed in the tenancy agreement. She stated that the building caretakers have many properties to manage and they cannot always tend to issues, like snow, removal right away.

The Tenants advised that they requested a second mail key but were denied this request.

M.R. stated that there are only two mailbox keys. One is for the Tenants and one is for the Landlord to keep in case the Tenants lose theirs. As such, there is not a second key available to give to the Tenants.

The Tenants advised that they discovered that the bathroom fans were running constantly and would increase their utility bills, so they disconnected them.

M.R. advised that the Building Code requires that these fans run continuously to vent moisture and humidity from the rental unit to prevent the chance of mould developing.

The Tenants advised that there was a considerable amount of noise coming from the upstairs tenants and that they were told by the caretaker that a day care was being operated upstairs. They stated that the upstairs tenants were advised to get carpets to dampen the noise. They eventually wrote a letter to these tenants requesting that they be more respectful, and the noise has not been excessive since.

E.H. confirmed that the upstairs tenants were asked to lay down some carpets to dampen any noise they might be making.

Finally, the Tenants stated that they left the rental unit on February 20, 2019 and when they returned, their entry fobs were not working, and they were locked out. They advised the Landlord of this problem and this was finally rectified by February 27, 2019.

E.H. advised that there were a bad batch of fobs that were provided to them, that the Tenants were advised of this, and that the Tenants stated that it was ok. She confirmed that the fobs were not functioning correctly for a few weeks; however, this has been corrected now.

She also advised that if the Tenants were not happy with the rental unit, she provided them with the option to end their tenancy with no penalty or consequences. However, the Tenants did not agree to this option.

Analysis

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

As per the hearing, these issues were rectified by the Landlord. The Tenants advised that they were satisfied that these issues have been satisfactorily remedied, and they were not seeking any further action or monetary compensation. The intent of their Application was to have these issues documented. As such, I decline to make any Orders.

Based on the evidence and the testimony from both parties, as it appears as if the Landlord made attempts to address the Tenants' concerns within a reasonable amount of time after being advised of the issues, I do not find that the Tenants were successful in their claims. As such, I find that the Tenants are not entitled to recover the filing fee for this Application.

Conclusion

As the issues have been rectified prior to this hearing and as the Tenants are satisfied of this outcome, I decline to make any Orders.

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: June 26, 2019

Residential Tenancy Branch