



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes LAT FF

Introduction

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

- authorization to change the locks to the rental unit pursuant to section 70;
- authorization to recover the filing fee for this application pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide testimony, to present evidence and to make submissions. No issues were raised with respect to the service of the application and respective evidence submissions on file.

Issues

Should an order be issued authorizing the tenant to change the locks to the rental unit?
Is the tenant entitled to recover the filing fee?

Background and Evidence

The tenancy began April 1, 2010 and the current monthly rent is \$980.00 payable on the 1st day of each month.

The tenant submitted three separate notices to enter the rental unit issued by the landlord dated August 22, 2017, May 3, 2019 and May 13, 2019. The tenant submits that for each of these notices, the landlord did not provide the required 24 hour notice to enter. The tenant testified that the notices were slipped through the mail slot and by the time he received them it was less than 24 hour notice.

The landlord acknowledged that in some instances the tenant may not have received the requisite 24 hour notice and apologized to the tenant for any inconvenience this may have caused. The landlord submits that they never entered the unit without first

providing notice. The landlord submits that on one occasion they were delivering a new fridge to the tenant and thought the tenant would appreciate getting the fridge as soon as possible. The landlord submits that on another occasion they were replacing a toilet so again thought they were doing something positive. The landlord assured the tenant that in the future they would post a notice to the tenant's door instead of putting it in the mail slot and wait the required deemed service provisions as per the Act.

Analysis

Section 29 of the Act requires a landlord give at least 24 hour written notice to enter a rental unit.

Pursuant to section 70 of the Act, the director may authorize the tenant to change the locks to the rental unit if satisfied that a landlord may enter other than as authorized under section 29 of the Act.

I find that in the case at hand the landlord did provide the tenant with notices to enter the rental unit; however, failed to consider the deeming provisions of the Act when delivering a notice in a method other than personal service. The landlord has acknowledged its mistake and assured the tenant this would not occur again in the future. Therefore, I find that authorizing the tenant to change the locks is not appropriate in these circumstances.

As the tenant was not successful in this application, I find the tenant is not entitled to recover the filing fee from the landlord.

The landlord is reminded of the following deeming provision under section 90 of the Act:

A document given or served in accordance with section 88 *[how to give or serve documents generally]* or 89 *[special rules for certain documents]*, unless earlier received, is deemed to be received as follows:

- (a) if given or served by mail, on the 5th day after it is mailed;
- (b) if given or served by fax, on the 3rd day after it is faxed;
- (c) if given or served by attaching a copy of the document to a door or other place, on the 3rd day after it is attached;
- (d) if given or served by leaving a copy of the document in a mailbox or mail slot, on the 3rd day after it is left.

Conclusion

The tenant's application is dismissed with leave to reapply if the landlord continues to not provide the required 24 hour notice under section 29 of the Act.

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 25, 2019

Residential Tenancy Branch