



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *RR, OLC, PSF, LRE, LAT, FF*

Introduction

This hearing dealt with an application by the tenant, pursuant to the *Residential Tenancy Act*, for authorization to change locks, to restrict the landlord's right to enter the rental unit, to comply with the *Act*, to provide facilities, for a reduction in rent, for compensation and for the recovery of the filing fee.

Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The parties represented themselves.

As both parties were in attendance, I confirmed the service of documents. The landlord confirmed receipt of the tenant's evidence and stated that she had not filed any evidence of her own. The landlord also stated that she had not received a copy of the tenant's application and therefore was not aware of the amount and nature of the tenant's monetary claim. The tenant was unable to provide any proof of having served the landlord with a copy of his application and notice of hearing.

The tenant found out the hearing details and codes by calling the Residential Tenancy Branch office after she received an email from the office reminding her of the hearing.

Since the landlord was not served with the tenant's application for dispute resolution, I am dismissing the tenant's monetary claim of \$700.00 with leave to reapply. I find that the landlord was served with the balance of the evidentiary materials in accordance with sections 88 and 89 of the *Act*.

Issues to be decided

Has the landlord fulfilled her responsibilities as a landlord with regard to complying with the *Act*, providing services and providing adequate notice prior to entering the rental unit? Is the tenant entitled to a rent reduction and the filing fee?

Background and Evidence

The tenancy started on May 15, 2018. The rental home consists of two levels. The tenant's suite is located on the lower level. The landlord occupied the upper level until she moved out following a breakdown in the tenant landlord relationship. The monthly rent is \$700.00 due on the first of the month and includes utilities and internet.

The parties agreed that the tenant shared the accommodation with a room mate who moved out in December 2018. The landlord stated that the room mate paid \$600.00 for rent but after he moved out, the tenant took over the use of the additional space and has moved appliances and furniture around to portray the unit as a one-bedroom unit. The tenant agreed that he has occupied the complete lower floor and has moved some items including the refrigerator from their original locations.

The tenant stated that he offered to pay an additional amount of \$300.00 to occupy the entire floor and the landlord refused. I have informed the tenant that he must return all items to their original locations and allow the landlord to show the unit to prospective tenants after she provides adequate notice.

The landlord stated that the tenant assaulted her on March 13, 2019 and that she moved out the next day and did not return for two weeks. The landlord stated that she returned for a few days in April 2019 to collect her belongings and then moved out permanently. The landlord stated that she did not feel safe living in the same house as the tenant and feared another assault.

The tenant denied having assaulted the landlord and stated that the landlord suffers from mental health issues.

The tenant stated that in early April he did not have access to the internet as stipulated in the tenancy agreement and believes that the landlord changed the password. The landlord agreed that she had terminated her internet account when she moved out in April 2019.

The landlord stated that she paid \$40.00 for the internet and agreed to restore the service. The tenant stated that he wanted to restore the service himself. The parties

agreed that the use of the internet was included in the rent as per the tenancy agreement. Accordingly, I find that the tenant is entitled to \$40.00 for each of the months that he was without the internet and going forward a rent reduction of \$40.00 per month.

The tenant stated that the water supply was also cut off by the landlord and filed an email from the municipality stating that the supply was cut off upon request. The landlord denied having requested the municipality to shut off the water supply and the note from the municipality does not provide details about who requested the shut off of the water supply to the rental unit.

The tenant was unable to prove that the landlord had requested the city to stop the service. The tenant stated that he requested the City to restore the water supply and they did so. As of the date of the hearing, the tenant stated that he did have water supplied to the unit.

The landlord stated that since the alleged assault she feared for her personal safety and decided not to live in her home while the tenant occupied the lower level. She requested the tenant to move out, but he refused to do so. The landlord has now listed the home for sale.

The tenant stated that the landlord and her real estate agent visit the rental unit without providing proper notice. I have informed the landlord of her responsibilities as a landlord to provide at least 24 hours notice in writing prior to entering the tenant's rental unit.

The landlord agreed that she refused to accept rent from the tenant starting in May 2019. The tenant agreed that he owed the landlord rent for May, June, July and August 2019 and also agreed to pay all outstanding rent if the landlord will accept it.

Analysis

Based on the testimony of both parties I find as follows:

The tenant is entitled to the use of the internet as it is included in the rent. The landlord offered to restore the service, but the tenant wanted to restore it himself. The landlord stated that she paid \$40.00 for the service and therefore the tenant is entitled to a rent reduction of \$40.00 per month.

The tenant lost the use of the internet in April 2019 and therefore he is entitled to receive a rent rebate of \$40.00, starting April 2019. The tenant agreed that he owes rent for the months of May, June, July and August 2019. The rent for each of these months is reduced to \$660.00 and therefore the tenant must pay the landlord \$2,640.00 for unpaid rent, for the months of May through August 2019. Since the tenant is also entitled to a \$40.00 rent reduction for April 2019, the tenant must pay \$2,600.00 to be caught up on all unpaid rent.

The tenant agreed to pay this amount (\$2,600.00) by August 15, 2019. From September 01, 2019, the tenant will pay monthly rent in the amount of \$660.00.

The door that separates the upper floor from the lower floor is locked and both parties have a key. In addition there is a latch on the landlord's side of the door that she may keep locked to ensure that the tenant does not have access to the upper floor.

Regarding the landlord's right to enter the rental unit, Section 29 of the *Residential Tenancy Act* states that 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.

Pursuant to Section 29, I order the landlord to provide at least 24 hours' notice of entry to the tenant in writing, prior to entering the rental unit. The landlord may give notice pursuant to s.29 for the purpose of showing the unit to a prospective tenant or a prospective buyer.

The tenant must remove all belongings from the area of the suite that was occupied by the roommate until December 2018. The tenant must also move the refrigerator and any other appliances/fixtures to their original locations. The tenant can choose to rent the additional space by paying \$600.00 to the landlord or any other mutually agreed upon amount of rent.

Since the tenant has proven a portion of his application, I award the tenant the recovery of the filing fee of \$100.00. The tenant may make a one-time deduction of \$100.00 off a future rent. The tenant has been ordered to pay \$2,600.00 for outstanding rent by August 15, 2019. The tenant may make a further deduction of \$100.00 and make a payment of \$2,500.00 by August 15, 2019.

Conclusion

- The rent has been reduced by \$40.00. Effective immediately the rent will be \$660.00 payable on the first of each month.
- The tenant will make a payment of \$2,500.00 by August 15, 2019 and will have paid all outstanding unpaid rent and will have recovered the filing fee of \$100.00.
- The landlord must be in compliance with s.29 of the *Residential Tenancy Act* and provide appropriate notice prior to entering the rental unit.
- The tenant is not authorized to change locks and must provide the landlord with a key for any locks that he may have changed.
- The tenant is required to return all appliances and furniture to their original locations.
- The tenant must remove all personal belongings from the area in the suite that was occupied by the other occupant of the lower floor.

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: August 06, 2019

Residential Tenancy Branch