



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes LRE, OLC

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution, made on July 8, 2019, (the "Application"). The Tenants applied for an order that the Landlord comply with the regulations, tenancy agreement or the *Act*, as well as an order to restrict or suspend the Landlord's right to enter the rental unit, pursuant to the *Residential Tenancy Act* (the "*Act*").

The Landlord, the Tenant L.B., as well as the Tenant's translator D.G., attended the hearing at the appointed date and time and provided affirmed testimony.

The Tenant testified that she served her Application and documentary evidence package to the Landlord by registered mail on July 8, 2019. The Landlord confirmed receipt. The Landlord testified that he served the Tenant with his documentary evidence in person on August 16, 2019. The Tenant confirmed receipt. Pursuant to section 88 and 89 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were given an 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. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

1. Are the Tenants entitled to an order that the Landlord comply with the regulations, tenancy agreement or the *Act*, pursuant to Section 62 of the *Act*?
2. Are the Tenants entitled to an order restricting or suspending the Landlord's right to enter, pursuant to Section 70 of the *Act*?

Background and Evidence

A copy of the Tenancy Agreement was submitted into evidence which indicates that the tenancy began on May 1, 2019. Currently the Tenants pay rent in the amount of \$1,350.00 to the Landlord which is due on the last day of each month. The Tenants paid a security deposit in the amount of \$675.00, which the Landlord continues to hold.

The Tenant stated that the Landlord has requested \$160.00 in addition to the rent each month to cover utility costs. The Tenant stated that she does not agree with having to pay this amount. The Tenant stated that the Landlord included this condition on the tenancy agreement after she had signed the agreement. The Tenant stated that she felt pressured into agreeing to the terms of the agreement at the time that she signed it, as there were no other housing options available to her.

In response, the Landlord stated that the agreement was made clear to the Tenants at the start of the tenancy that the utilities were not included in the rent and that they would be required to pay one third of the utility costs. The Landlord submitted a copy of the tenancy agreement in support.

The Tenant stated that the Landlord has been entering her home without notice on several occasions. The Tenant stated that on June 15, 2019 she returned home to find that one of the faucets in the rental unit had been repaired. The Tenant stated that she suspects that the Landlord entered without notice and fixed the faucet.

The Tenant stated that the Landlord walked into her rental unit on August 16, 2019 without notice. The Tenant stated that the interaction between them was unpleasant and she no longer feels safe in her home.

In response, the Landlord stated that he communicates with the Tenant's daughter about matters relating to the tenancy given the language barrier between them. The

Landlord stated that permission had been given to him by the other Tenant, prior to him entering the rental unit on each occasion.

Analysis

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

The Tenant stated that she is concerned that she is overpaying in utility charges to the Landlord. The Tenant stated that she felt pressured into agreeing to the terms of the tenancy agreement at the time, as there were no other housing options available to her at the time.

I find that the Tenant has provided insufficient evidence to demonstrate that the tenancy agreement had been altered or that the utilities were included in the rent. I accept that the tenancy agreement clearly indicates that the utilities are not included in the rent and that the Tenants are required to pay one third of the utilities. As such, I find that the Landlord has not breached the *Act* or the tenancy agreement and therefore dismiss the Tenants' Application without leave to reapply.

In relation to the Tenants' claim that the Landlord is entering the rental unit without notice, I find that the Tenant has provided insufficient evidence to demonstrate that the Landlord did not receive permission from the other Tenant as claimed by the Landlord. However, it is suggested that moving forward, the parties adhere to Section 29 of the *Act* which states;

(1) 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 that includes the following information:

(i) the purpose for entering, which must be reasonable;

(ii) the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees;

The Landlord must ensure that the proper written notice is provided to the Tenants in accordance with Section 29 of the *Act*. Should the Landlord fail to provide the Tenant

with written notice prior to entering the rental unit, the Tenants are at liberty to make an Application for monetary compensation under the *Act*.

Conclusion

The Tenants have provided insufficient evidence to demonstrate that the Landlord has breached the Act, or tenancy agreement. The Tenants have also provided insufficient evidence to demonstrate that the Landlord entered the rental unit without prior permission. As such, the Tenants' Application is dismissed with leave to reapply.

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 28, 2019

Residential Tenancy Branch