



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, LRE, LAT, OLC, FF

Introduction

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

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- authorization to change the locks to the rental unit pursuant to section 70;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed the tenants served the landlord with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on January 25, 2020. Both parties confirmed the landlord did not submit any documentary evidence.

At the outset, both parties confirmed the landlord cancelled the 1 month notice dated January 22, 2020. As such, no further action is required for this portion of the application.

The tenants clarified that they now only wished to proceed on the tenants' request for authorization to change the locks and recovery of the filing fee. The landlord indicated her understanding and had no issues proceeding.

Issue(s) to be Decided

Are the tenants entitled to an order authorizing them to change the locks?

Are the tenants entitled to recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The tenants seek an order authorizing them to change the locks and deny the landlord emergency access. The tenants stated that the landlord had attended and entered the rental unit without permission on one occasion. The tenants stated that they had a video of the landlord's entry submitted in support of this claim.

The landlord stated that she did have permission from the tenants to enter the rental unit to check the water pipes as she was concerned that during the cold weather the pipes could freeze. The landlord referenced a letter dated January 15, 2020 in which the landlord notifies the tenants of her plans to enter the rental unit to inspect the water pipes from freezing on January 18, 19, 20, 21, 22, 23, 25 and 25. The landlord was not able provide any evidence to support her claim that permission to enter was given by the tenants.

Analysis

In this case, the tenant seeks authorization to change the locks and deny the landlord emergency access to the rental unit. Both parties confirmed that an incident took place on one occasion in which the landlord had entered the rental unit to check if the pipes had been frozen, despite assurances from the tenants that the heat was left on at 21 degrees and the taps left running. I find that in the circumstances the tenants request to be too extreme in the circumstances due to this one incident. The request authorizing the tenants to change the locks is dismissed.

I note for the record that a review of the video shows that the landlord did more than inspect the taps to make sure they were not frozen. The video shows the landlord and another person in the rental unit and the landlord taking photographs throughout the rental unit.

Section 29 of the Act speaks to the landlord's right to enter a rental unit that is subject to a tenancy agreement and the landlord must not enter a rental unit for any purpose unless:

(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;
- (c) the landlord provides housekeeping or related services under the terms of a written tenancy agreement and the entry is for that purpose and in accordance with those terms;
- (d) the landlord has an order of the director authorizing the entry;
- (e) the tenant has abandoned the rental unit;
- (f) an emergency exists and the entry is necessary to protect life or property.

(2) A landlord may inspect a rental unit monthly in accordance with subsection (1) (b).

I find based upon the evidence of both parties that the landlord did enter the rental unit without proper notice. The landlord cannot give a "blanket notice" to check if an emergency may occur. As noted above, if an emergency exists, the landlord may enter the rental unit if necessary, to protect life and property. Written notice in advance is not an emergency.

The landlord is cautioned that any further attempts to enter the rental unit without permission or lawful notice may constitute a breach of the tenancy on the landlords' part causing a loss of quiet enjoyment and may be subject to monetary compensation.

The tenants' application for authorization to change the locks has been dismissed, the landlord cancelled the 1 month notice dated January 22, 2020. I also find that the landlord did enter the rental unit without permission or proper notice. On this basis, I find that the tenants are entitled to recovery of the \$100.00 filing fee. As the tenancy

continues, I authorize the tenants to withhold one-time \$100.00 from the next monthly rent upon receipt of this decision.

Conclusion

The tenants' application to change the locks 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: March 31, 2020

Residential Tenancy Branch