



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, FF

Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (Act) for:

- an order requiring the landlord to comply with the Act, regulations, or tenancy agreement; and
- recovery of the filing fee.

The tenant, the landlord and the landlord's agent/interpreter attended, the hearing process was explained, and they were given an opportunity to ask questions about the hearing process.

The parties confirmed receiving the other's evidence.

Thereafter both parties were provided the opportunity to present their affirmed testimony and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, not all details of the parties' respective submissions and or arguments are reproduced here; further, only the evidence specifically referenced by the parties and relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the tenant entitled to an order requiring the landlord to comply with the Act, regulations, or tenancy agreement and recovery of the filing fee?

Background and Evidence

The evidence shows that this tenancy began on July 1, 2019, monthly rent was set at \$2,750.00 and the tenant paid a security deposit of \$1,375.00.

The evidence also was that the original landlord sold the residential property to the landlord here, and that the landlord here has moved into the basement unit, with the rental unit being the upper suite.

The parties were previously in dispute resolution regarding the landlord's application seeking an order of possession of the rental unit based upon an agreement by the tenant to vacate. That hearing before another arbitrator occurred on July 23, 2020, and a Decision was rendered on July 27, 2020, in which the landlord's application was dismissed. That file number is listed on the style of cause page of this Decision.

The other arbitrator wrote that the landlord purchased the residential property on March 1, 2020, with the intention of he and his family moving in. The other arbitrator determined that the tenancy was on a month-to-month basis, not a fixed term as thought by the landlord and his real estate agent, and the tenant was not required to move until the tenant gave a notice to vacate.

As to the tenant's application here, when asked about what issues caused him to file this application, the tenant said he did so because the landlord had filed his application seeking the order of possession of the rental unit.

The tenant said he wanted the landlord to stop harassing him about moving out. The tenant submitted that the harassment caused him and his family to suffer both physically and mentally from excessive anxiety.

The tenant submitted that the landlord has taken over the garage, by storing all his personal property there.

The tenant confirmed that he signed an addendum with the landlord agreeing to a reduction in monthly rent of \$250.00 to allow the landlord full use of the garage. A copy of the document was filed into evidence.

The tenant confirmed his monthly rent has been reduced by \$250.00 since March 2020, but that he now wants the full use of the garage again.

Landlord's response –

The landlord denied harassing the tenant because they only asked him a few times about he and his family vacating the rental unit. The landlord submitted they wanted to move into the rental unit they had purchased.

The landlord submitted that when they moved into the basement suite on March 1, 2020, they needed more space to store their personal property. The landlord submitted the tenant signed the addendum of his own free will agreeing to the reduction in monthly rent and allowing the landlord to use the garage. The landlord submitted that the tenant still has his belongings in the garage as well.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

Section 62(3) of the Act provides that: “The director may make any order necessary to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or tenant comply with this Act, the regulations or a tenancy agreement and an order that this Act applies.”

In this case, the tenant confirmed that his application was in direct response to the landlord's filing his own application for dispute resolution, seeking an order of possession of the rental unit.

The tenant said the landlord has harassed the tenant and additionally said the landlord took over the use of the garage.

In this instance, I do not find the tenant submitted sufficient evidence to establish that the landlord's conduct interfered with the tenant's right to quiet enjoyment. I find that the landlord attempted to end the tenancy due to a mistaken belief that the tenant was required to vacate the rental unit by June 30, 2020, which led to their communication with the tenant. That matter has now been resolved through the Decision of July 27, 2020, by another arbitrator. The tenancy continues now on a month-to-month basis.

As it appears the landlord may not have intended to be a landlord when he purchased the property, he is in fact now a landlord. As such, I remind the landlord to familiarize

himself with his obligations under the Act in dealing with the tenant, to ensure the tenant has the right to quiet enjoyment of their home. The landlord is cautioned that if he fails to do so, the tenant may seek compensation through another dispute resolution application.

As to the tenant's request to return to him the full use of the garage, the addendum he signed on March 1, 2020, allowed the landlord to use the full garage in lieu of a monthly rent reduction of \$250.00. I find this to be an enforceable contract, to which the tenant is obligated to comply. I therefore decline to address the matter of the use of the garage.

Conclusion

Due to the above, I find the tenant submitted insufficient evidence to support his application, and as a result, it is dismissed.

As the tenant's application was dismissed, I decline to award him recovery of the filing fee.

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 7, 2020

Residential Tenancy Branch