



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Rhome Property Management and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC FFT MNDCT

Introduction

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

- An order that the landlord comply with the Act, regulations or tenancy agreement pursuant to section 62;
- Authorization to recover the filing fee from the landlord pursuant to section 72; and
- A monetary award for damages and loss pursuant to section 67.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The corporate landlord was represented by its agents.

As both parties were present service was confirmed. The parties each testified that they were in receipt of the respective materials. Based on the testimonies I find each party duly served in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Should the landlord be ordered to comply with the Act, regulations or tenancy agreement?

Is the tenant entitled to recover their filing fee from the landlord?

Is the tenant entitled to a monetary award as claimed?

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 arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

This periodic tenancy began in May 2017. The current monthly rent is \$1,431.00 payable on the first of each month. A security deposit of \$652.50 was collected at the start of the tenancy and is held by the landlord. The rental unit is a suite in a multi-unit rental building with a common lobby area.

The rental property has video cameras monitoring the common entrance area and access to the building is by a FOB system. The tenant submits that they have incurred a loss of quiet enjoyment and freedom from reasonable privacy due to security cameras on the rental premises monitoring access to the rental building. The tenant testified that while they were aware of the presence of the video cameras when the tenancy commenced and they take no issue with footage being filmed the tenant does object to footage being viewed and characterizes that as a breach of their right to privacy.

The tenant submits that there has been an ongoing conflict with the landlord regarding the status of one of their guests and whether they should now be considered an additional occupant of the rental unit. The tenant says that the landlord's monitoring of the frequency and duration of her guests constitutes an unreasonable breach of their right to privacy and seeks a monetary award due to this breach. The tenant further submits that due to the ongoing dispute and antagonistic relationship that has been cultivated with the landlord they are now unable to reside in their unit and seek the costs for moving out of the rental building.

There was a dispute between the parties regarding the return of a \$90.00 deposit paid by the tenant for the use of an additional FOB for the building. The parties testified that the deposit has been returned to the tenant as at the date of the hearing.

The landlord submits that the security camera is located in the common area of the building and monitored in a reasonable manner for the purposes of preventing unauthorized entry and protecting the security of the property. The landlord submits that their conduct has been reasonable under the circumstances and there has been no breach of the tenant's right to privacy such that a monetary award is warranted.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

The tenant makes a claim for a monetary award for loss of quiet enjoyment pursuant to section 28 of the *Act*. That section provides in part:

28 A tenant is entitled to quiet enjoyment including, but not limited to, rights to the following:

- (a) reasonable privacy;
- (b) freedom from unreasonable disturbance;

Based on the totality of the evidence I find that the tenant has not established their claim on a balance of probabilities. I find that the tenant has not demonstrated that the security footage taken by the landlord is used in a manner that is unreasonable or in breach of the expectation of privacy. The undisputed evidence of the parties is that the security cameras are positioned so as to monitor access to the rental property. I find that the use of security footage for the purposes of preventing unauthorized entry to be a reasonable and expected use of a video security system. I accept that the security cameras are positioned in the common areas and that they are not facing private entrances. I find all of this to be within the reasonable scope of a landlord's authority.

I find the suggestion of the tenant that the video footage is monitored in excess of what is reasonable to not be supported in the materials. I do not find the tenant's conclusion that the landlord must be relying upon the security footage and breaching the tenant's right to reasonable privacy as they have knowledge of the frequency and duration of their guests' attendance at the rental unit to be a reasonable one. I find that it is possible, and far more likely, that the employees of the landlord are able to physically observe the comings and goings of tenants and guests from their vantage point in the rental office. Based on the photographic evidence submitted, while I accept that the view is not direct and unobstructed, it appears that the entrance is within the line of sight of the office.

I do not find the tenant's inference that the landlord is reviewing security footage or analyzing the usage of FOBs to monitor the entrances and egresses from the rental property to be supported in the documentary evidence. I do not find that rumors and gossip to be a reliable source of information or sufficient to support the tenant's conclusion. Similarly, I do not find that the text conversation with an unidentified individual, sharing subjective feelings to have sufficient probative weight to support the tenant's position.

Based on the totality of the materials I find insufficient evidence that the landlord's actions are unreasonable under the circumstances. I find it within the reasonable scope of a landlord's duty to have security cameras monitoring common area entrances. I do not find there is sufficient evidence that the landlord's use of the footage is beyond what would reasonably be expected. I find the tenant's conclusion that the landlord must be acting unreasonably by monitoring the security footage in order to raise the issue of whether their guest is an additional occupant to not be established on a balance of probabilities.

I find the circumstances in the matter before me distinguishable from the previous decision cited by the tenant wherein there were cameras directed at the entrance to a specific rental unit. I do not find sufficient evidence that the landlord's use of the security footage is in excess of what would be reasonable under the circumstances.

Consequently, as I am unable to find that the landlord has breached the Act, regulations or tenancy agreement I find that there is no basis for a monetary award nor an order for compliance. I dismiss the tenant's application in its entirety without leave to reapply.

Conclusion

The tenant's application is dismissed in its entirety without 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: September 15, 2020

Residential Tenancy Branch