



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, FFT

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on July 30, 2020 (the "Application"). The Tenant applied for an order that the Landlord comply with the regulations, tenancy agreement or the *Act*, and for the return of the filing fee, pursuant to the *Residential Tenancy Act* (the "*Act*").

The Tenant and the Landlords attended the hearing at the appointed date and time. At the beginning of the hearing, the parties acknowledged receipt of their respective application package and documentary evidence. No issues were raised with respect to service or receipt of these documents during the hearing. Pursuant to section 71 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. Is the Tenant entitled to an order that the Landlord comply with the regulations, tenancy agreement or the *Act*, pursuant to Section 62 of the *Act*?
2. Is the Tenant entitled to the return of the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The parties testified and agreed to the following; the tenancy began on January 1, 2020. Currently, the Tenant pays rent to the Landlords in the amount of \$1,400.00 on the first day of each month. The Tenant paid a security deposit in the amount of \$675.00 which the Landlords continue to hold.

The Tenant stated that she currently feels intimidated, stalked, and harassed following several interactions with the Landlords. The Tenant stated that she has been cautioned by the Landlord regarding having a pet and for smoking in her rental unit. The Tenant stated that she has run into the Landlord in the lobby of the rental property at which point the Landlord pretends to call security.

The Tenant stated that she has never witnessed security at the rental property, therefore, she feels as though the Landlord is intentionally intimidating the Tenant. The Tenant stated that this has impacted her physical and mental health to the point that she has provided the Landlords with her notice to end tenancy for breaching her quiet enjoyment.

In response, the Landlords stated that they received complaints from other occupants in relation to the Tenant having a pet, as well as smoking in her rental unit, which contradicts the terms of the tenancy agreement. The Landlords provided a copy of the complaints that they had received. The Landlords stated that they sent the caution notices to the Tenant advising her to comply with the terms of the agreement.

The Landlords stated that their office is located near the front lobby, therefore, it is not uncommon to see them upon entering the rental property. The Landlords stated that they work as a team and that when calling for security, it meant that other available staff should respond. The Landlords stated that they are ensuring the regulations of the tenancy agreement are adhered to. The parties provided a copy of the written communications in support.

Analysis

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

Section 28 of the Act provides that a Tenant is entitled to quiet enjoyment including the right to reasonable privacy and freedom from unreasonable disturbance. Residential

Tenancy Policy Guideline 6 further discusses the right to quiet enjoyment and provides that:

Temporary discomfort or inconvenience does not constitute a basis for a breach of the covenant of quiet enjoyment. Frequent and ongoing interference or unreasonable disturbances may form a basis for a claim of a breach of the entitlement to quiet enjoyment.

Residential Tenancy Policy Guideline 6 also sets out that;

A landlord is obligated to ensure that the tenant's entitlement to quiet enjoyment is protected. A breach of the entitlement to quiet enjoyment means substantial interference with the ordinary and lawful enjoyment of the premises. This includes situations in which the landlord has directly caused the interference, and situations in which the landlord was aware of an interference or unreasonable disturbance but failed to take reasonable steps to correct these.

A landlord can be held responsible for the actions of other tenants if it can be established that the landlord was aware of a problem and failed to take reasonable steps to correct it.

In this case, the Tenant stated that she has received several written complaints from the Landlords in relation to having a pet and smoking in her rental unit. The Landlords acknowledged the communications, however, stated that it is their responsibility to maintain the regulations which were established in the tenancy agreement.

I find that the Landlords provided sufficient evidence to demonstrate that each communication with the Tenant was in relation to a genuine complaint which was received by the Landlords from other occupants in the rental property. I find that the communications were reasonable and respectful. I find that it is within the Landlords' right and responsibility to follow up on complaints they receive and address them accordingly.

I find that the Tenant has received a few caution notices which would not constitute a loss of quiet enjoyment as the Tenant provided insufficient evidence to demonstrate that the Landlords' actions constitute frequent and ongoing interference or unreasonable disturbances. I find that the Landlords have not breached the Act, tenancy agreement, or regulations. As such, I dismiss the Application without leave to reapply. As the Tenant was unsuccessful with her Application, I find that she is not entitled to the return of the filing fee.

Conclusion

The Tenant has provided insufficient evidence to demonstrate that the Landlords have not complied with the Act, tenancy agreement, or regulations. As such, the Tenant's Application is dismissed 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 16, 2020

Residential Tenancy Branch