



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BRIGHTSIDE COMMUNITY HOUSING
FOUNDATION and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, MNDCT, LRE

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant filed under the *Residential Tenancy Act* (the “*Act*”), requesting an Order for the Landlord to comply with the *Act*, to restrict the Landlords access to the rental unit and for a monetary order for damage or compensation under the *Act*. The matter was set for a conference call.

Three Agents for the Landlord (the “Landlord”) and Tenant attended the hearing and were each affirmed to be truthful in their testimony. The Landlord and Tenant were provided with the opportunity to present their evidence orally and in written and documentary form and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before me. Both parties were advised of section 6.11 of the Residential Tenancy Branches Rules of Procedure, prohibiting the recording of these proceedings.

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.

Issues to be Decided

- Should the Landlord be Ordered to comply with the *Act*?
- Should the Landlord’s access to the rental unit be restricted?
- Is the Tenant entitled to a monetary order for damage or compensation under the *Act*?

Background and Evidence

While I have considered all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

Both the parties testified that in November 2020, the Landlord began extensive renovations to the rental property, which included a new fire sprinkler system, new windows/patio door, new roof, building re-piping and upgrades to the elevators. Both parties also agreed that due to these renovations the Landlord and their contractors would be required to access the Tenant's rental unit.

The Tenant testified that they received three Notices; dated January 14, 2021, January 21, 2021, and January 29, 2021, and that these notices indicated that the Landlord's contracted construction workers would be accessing the Tenant's rental unit to perform work on January 18, 19, 20, 26, 27, 2021 and February 1, 2021. The Tenant submitted copies of these three Notices into documentary evidence.

The Tenant testified that they noted that someone had been in their rental unit on a day other than the dates indicated on the Landlord's notices, as they found footprints in the unit when they returned at the end of the day. The Tenant testified that they are requesting an order that the Landlord complies with the *Act* and an order that the Landlord's right to access to the rental unit be restricted due to this breach.

The Tenant was asked on what day this entry happened; the Tenant testified that they did not remember which day this happened.

The Landlord testified that they nor their contractors entered the rental unit without notice, as they only entered the Tenant's rental unit on the days indicated on the notices they issued.

The Tenant testified that the notice of entry they received on January 14, 2021, required them to vacate the rental unit for three days, from January 18 to January 20, 2021. The Tenant is requesting the recovery of their hotel stay for this period in the amount of \$145.00, due to the Landlord's notice to vacate during this period. The Tenant submitted a copy of the invoice for their hotel stay into documentary evidence.

The Landlord testified that they never requested that the Tenant vacate the rental unit during the renovation work. The Landlord testified that they did recommend that the

Tenant may want to be out of the unit during the workday, as the renovations were extensive and the work would disturb the Tenant, but that at no time was the Tenant required to be out of the unit. The Landlord reference the notices of entry submitted by the Tenant as proof that they never required the Tenant to be out of the rental unit for three days.

Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

The Tenant has requested an order that the Landlord complies with the Act and an order that the Landlord's right to access to the rental unit be restricted due to their claim that the Landlord or the Landlord's contractor entered the rental unit without providing the required 24 hours notice before entry.

I have reviewed all the testimony provided by these parties, and I find that the parties offered conflicting verbal testimony regarding the Landlord access of the rental unit without notice. In cases where two parties to a dispute provide equally plausible accounts of events or circumstances related to a dispute, the party making a claim has the burden to provide sufficient evidence over and above their testimony to establish their claim, in this case, the Tenant, as the claimant to these proceedings, holds the burden of proving their claim.

I have reviewed the Tenant's documentary evidence package submitted to these proceedings, and I find that there is no evidence before me to support the Tenant's claim that the Landlord, the Landlord staff or the Landlord's renovation contractors had entered their rental unit without notice. Consequently, I must dismiss the Tenant's claim for an order that the Landlord complies with the *Act* and an order that the Landlord's right to access the rental unit be restricted.

As for the Tenant's claim for a monetary order in the amount of \$145.00 for their stay at a hotel between January 18, 2021, to January 20, 2021, after careful review of the Tenant's documentary evidence, specifically the notices of entry for repair work, I find that these notices do not require the Tenant to vacate the rental unit during the repair work periods or overnight. It is suggested for the working hours of 8:00 a.m. to 4:00 p.m., but it is not required. Consequently, I find that the Tenant has not proven sufficient evidence to support their claim for compensation under the *Act*, and I dismiss the Tenant's application for compensation.

Conclusion

I dismiss the Tenant's application in its entirety.

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: June 28, 2021

Residential Tenancy Branch