



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, AS, AAT

Introduction

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

- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an order to allow access to or from the rental unit or site for the tenant or the tenant's guests pursuant to section 70; and
- an order allowing the tenant to assign or sublet because the landlord's permission has been unreasonably withheld pursuant to section 65.

The landlord did not attend this hearing, although I waited until 10:05 a.m. in order to enable the landlord to connect with this teleconference hearing scheduled for 9:30 a.m. The tenant attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The tenant and his witness AC gave sworn testimony that they personally served the landlord the Notice of Hearing package, Application and documentary evidence on March 18, 2021. I am satisfied that the landlord has been served in accordance with section 89 of the *Act*, the hearing proceeded and completed on that basis.

Preliminary Issue – AS

Part of the tenant's application is seeking to sublet his unit, the tenant advised that was checked off in error and is not asking to sublet the unit, accordingly; I dismiss that portion of the tenant's application.

Issue(s) to be Decided

Is the tenant entitled to order compelling the landlord to act in accordance with the Act, regulation or tenancy agreement?

Should an order be made granting access to the unit for the tenant or his guest.

Background and Evidence

The tenant gave the following testimony. The tenant testified that when the landlord conducts general maintenance or inspections, he will post a notice in the hallways and slip a notice under the tenants' door. The tenant testified that he is willing to work with the landlord but thinks proper notice should be given in accordance with the Act. The tenant testified that since moving into his unit in October 2013, the landlord has limited the number of nights of overnight guests to fourteen per year. The tenant testified that he thinks that's unfair and that the landlord should allow more nights. The tenant testified that he would like to get a roommate but the landlord didn't accept the hearing package with his written request. The tenant testified that he understands that a roommate would have to apply and qualify but he doesn't think the landlord will even let them apply.

Analysis

It was explained in great detail to the tenant that many of the issues noted in this decision and others that came to light in the hearing are premature in nature and more of a hypothetical nature. The landlord has not enforced the overnight guest rule at any time during the tenants seven-year stay. Furthermore, in the tenant's own testimony, he stated that the request letter to have a roommate was the first letter he ever requested a roommate. As for being given notice for repairs or inspections, the tenant advised that the issues seem to have been resolved since advising the landlord he wants written notice.

Pursuant to section 59(5)(a) of the *Act*, I can refuse to accept an application if it does not disclose a dispute that may be determined. I find that the determination and decision requested by the tenant is not appropriate. It is not appropriate for me to undertake a purely academic exercise and make a pre-emptive determination as to the merits of the tenant's claims before they have been made.

The tenant has described future hypothetical events that have not yet occurred and may never occur. Although I can appreciate that the tenant wishes for these items to be

addressed, he must go through the full process with the landlord to request a roommate, as well it would be advisable to discuss the overnight rule with the landlord directly. For all the reasons stated above, I hereby dismiss the tenant's application in its entirety without leave to reapply.

Although I make no formal order regarding notice and access of the unit, I provide the following for the parties on an informational basis:

Landlord's right to enter rental unit restricted

29 (1)A landlord must not enter a rental unit that is subject to a tenancy agreement for any purpose unless one of the following applies:

- (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).

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: June 22, 2021

Residential Tenancy Branch