



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, PSF

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for the Landlord to comply - Section 62; and
2. An Order for the provision of services or facilities - Section 65.

The Landlord did not attend the hearing. I accept the Tenant's evidence that the Landlord was served with the application for dispute resolution, notice of hearing and evidence (the “Hearing Package”) by registered mail on December 17, 2021 in accordance with Section 89 of the Act. The Tenant provided further evidence to the Landlord by registered mail on December 30, 2021. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Landlord is deemed to have received the Hearing Package on December 22, 2021. The Tenant was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to an order for compliance?

Is the Tenant entitled to an order for the provision of services or facilities?

Background and Evidence

There is no written tenancy agreement. The tenancy started on January 1, 2021 with rent of \$700.00 payable on the first day of each month. The Parties mutually agreed to reduce the monthly rent to \$600.00 in April 2021 and this amount continues to be paid. At the outset of the tenancy the Landlord collected a security deposit of \$350.00. The Landlord lives in a separate unit in the house containing the Tenant's unit. The Tenant has never been given a key to the community mailbox provided for the house.

From the onset of the tenancy the Landlord would collect the Tenant's mail from the Landlord's mailbox in the community mailbox and deliver it to the Tenant. On May 11, 2021 the mail delivery to the Tenant stopped, when the Landlord's daughter, acting as the Landlord's agent, took and retained the Tenant's mail in front of the Tenant and informed the Tenant that the Landlord would no longer deliver the Tenant's mail unless the Tenant paid rent. This matter was reported to the police and the Landlord has since delivered the Tenant's mail on two occasions. The Tenant also sent a letter to the Landlord about the mail problem on June 3, 2021. In June 2021 the Tenant was given a registered letter envelope addressed to her from the lower tenant. The postal service informed the Tenant that they had no idea how the lower tenant received this registered mail. This envelope contained the notice of direct request dispute proceedings commenced by the Landlord. The outcome of this application by the Landlord is that the matter was dismissed with leave. On the same day as the direct request proceedings the Landlord cashed the Tenant's rent cheque that the Landlord had been holding. The Tenant is concerned that the Landlord will attempt to seek to end the tenancy again and will serve the Tenant with notices to end the tenancy or notices of proceedings by registered mail knowing full well that the Tenant would not be able to obtain such mail. The Tenant has not agreed and does not agree to provide their email address to the Landlord for the purposes of service of any documents.

Analysis

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. Section 27(2) of the Act provides that a landlord may terminate or restrict a service or facility, other than one referred to in subsection (1), if the landlord

(a) gives 30 days' written notice, in the approved form, of the termination or restriction, and

(b) reduces the rent in an amount that is equivalent to the reduction in the value of the tenancy agreement resulting from the termination or restriction of the service or facility.

Based on the undisputed evidence that the Tenant was provided with delivery of their mail from the onset of the tenancy I find that the oral tenancy agreement includes a term that the Tenant will have mail delivery to their unit. Based on the undisputed evidence that this mail delivery was abruptly stopped without notice or reduction in the value of the tenancy, I find that the Landlord failed to comply with the tenancy agreement and that the Tenant is therefore entitled to an order for compliance. I therefore order the Landlord to provide the Tenant with a mail key within two days receipt of this decision. Should the Landlord not comply with this order the Landlord must reduce the rent by an amount equivalent to the loss in the tenancy's value, including the month of January 2022, until the tenancy ends. Should the Landlord not provide the mail key or an equivalent rent reduction, the Tenant has leave to reapply for a rent reduction.

Sections 88 and 89 of the Act set out approved methods for service of documents and applications for dispute resolution. Both of these sections allow service by registered mail. Based on the undisputed evidence that the Landlord had knowledge that the Tenant could not access the mailbox, the undisputed evidence that despite this knowledge the Landlord served the Tenant with dispute resolution documents by

registered mail to the mailbox, and in order to give effect to the Tenant's right to know of any action taken against the Tenant by the Landlord, I order that the Landlord may not serve the Tenant with any documents by mail and may only serve the Tenant with documents by posting these documents on the door of the unit or by personal service of the documents. The Landlord may not serve the Tenant with any documents by email without the written consent of the Tenant.

Conclusion

The Landlord is ordered to provide a mail key to the Tenant within two days of receipt of this decision.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: January 14, 2022

Residential Tenancy Branch