



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Pendrell 1325 Enterprises Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **PSF, OLC, FFT**

Introduction

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

- an order to the landlord to provide services or facilities required by law pursuant to section 65;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

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 agent (the "landlord").

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and the parties each testified that they were not making any recordings.

As both parties were present service was confirmed. The parties each testified that they received the respective materials and based on their 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? Should the landlord be ordered to provide services or facilities as required

under the tenancy agreement? Are the tenants entitled to recover their filing fee from the landlord?

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.

The parties agree on the following facts. This tenancy began on May 1, 2017. The current monthly rent is \$1,035.30 payable on the first of each month.

The tenants submit that both named applicants were co-tenants at the start of the tenancy. The tenants submit that SD was not listed as a tenant on an invalid fixed-term lease from November 2018 and the landlord has relied upon this document to reduce SD's status to that of occupant.

A single page of the tenancy agreement of 2017 was submitted into evidence. The page of the agreement has the typewritten names of the landlord and tenant RD with their signatures and date of signing. The name of the tenant SD is added in handwriting and there is no signature from SD.

The landlord testified that they took over this tenancy in April, 2021. They have reviewed the available documentation and believe SD is an occupant and not a tenant listed on any valid agreement signed by the parties. The landlord said they would add SD as an occupant provided they apply to have the present tenancy agreement amended in accordance with their rules.

Analysis

Pursuant to Residential Tenancy Rule of Procedure 6.6 the onus is on the applicant to establish their claim on a balance of probabilities.

Residential Tenancy Policy Guideline 13 sets out the rights and obligations of co-tenants and occupants. The Guideline provides that co-tenants are two or more tenants who rent the same rental unit or site under the same tenancy agreement.

In the present case, I find that a single page of a tenancy agreement that has a clear handwritten addition of a co-tenant who has not signed the document to be of limited probative value in establishing that SD was a party to the original tenancy agreement.

I find insufficient evidence that SD was ever a party to this tenancy agreement or that the agreement was previously amended to add them as a co-tenant. While it is possible to amend an existing tenancy agreement and add additional parties as tenants, the landlord and the existing tenant must agree to such an amendment. The landlord testified that they have no documentation showing SD was ever a tenant under the tenancy agreement.

Based on the paucity of evidence I am unable to find that SD was a party to the tenancy agreement that has been excluded by the landlord in breach of the Act, regulations or tenancy agreement. Consequently, I dismiss the tenants' application.

Conclusion

The tenants' 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: March 22, 2022

Residential Tenancy Branch