



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MAIN STREET HOSTEL (SOURCE ENTERPRISES LTD) and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **OPT**

Introduction

This hearing dealt with the Tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for an Order of Possession for the Tenant pursuant to Sections 54 and 62 of the Act.

The hearing was conducted via teleconference. The Landlord, LS, and the Tenant, QLSC, and Legal Advocate, CW, attended the hearing at the appointed date and time. Both parties were each given a full opportunity to be heard, to present affirmed testimony, to call witnesses, and make submissions.

Both parties were advised that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. Both parties testified that they were not recording this dispute resolution hearing.

The Tenant's Advocate testified that the Landlord was served with the Notice of Dispute Resolution Proceeding package and evidence for this hearing on April 1, 2022 by Canada Post registered mail (the "NoDRP package"). The Advocate referred me to the Canada Post registered mail receipt with tracking number submitted into documentary evidence as proof of service. I noted the registered mail tracking number on the cover sheet of this decision. I find that the Landlord was deemed served with the NoDRP package five days after mailing them, on April 6, 2022, in accordance with Sections 89(1)(c) and 90(a) of the Act.

Issue to be Decided

Is the Tenant entitled to an Order of Possession?

Background and Evidence

I have reviewed all written and oral evidence and submissions before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The parties confirmed that this periodic tenancy began in September 2019. Monthly rent is \$450.00 payable on the first day of each month. The new Landlord took over running the building in June 2020. The Landlord said the \$450.00 room is supposed to be a shared room, but the Tenant has never shared her room. No deposits were collected for this tenancy.

The Tenant's Advocate testified that the Landlord has locked out the Tenant from her rental unit on more than one occasion. On January 31, 2022, the Tenant received a notice saying,

*Tomorrow morning Room XX [Tenant's name] Your door lock will
be change
Thanks [Manager name]*

The Tenant testified that the Landlord called the local general hospital emergency health team and the police to remove her from the building. On the second try, on February 8, 2022, they were successful.

On February 17, 2022, the Tenant stated she was discharged from the hospital, and when she returned to her residential building, the night staff refused to let her into her rental unit. The Tenant testified that the night staff were instructed to evict her, and they threatened her that if she did not leave, the police will be called and charges would be laid. The police did come, and the Tenant said she was advised that since she did not have an Order of Possession, they asked her to leave. All her belongings remained in her rental unit. The Tenant uploaded pictures of the 'L-bracket' that prevented her from entering her room. The Tenant said she stayed on the street. It was scary and cold.

On February 18, 2022, the Tenant got assistance from a neighbour to remove the L-bracket from her door and door frame. Constable MA spoke to the Tenant and the Landlord and advised them "*to sort the issue out via the landlord tenancy branch.*"

On February 19, 2022, the Tenant went out to do some shopping and when she returned, she said, her rental unit was locked again. A drugstore owner was asked by the Tenant for his assistance to gain entry back into her room. The drugstore owner came with a screwdriver and helped the Tenant gain access to her room. The drugstore owner's letter stated while he was unscrewing the metal bracket that was stopping the Tenant from gaining entrance into her room, that a "*caretaker came out and said loudly that she was not allowed into her room.*" The Tenant wanted to call for help, and when the drugstore owner removed the L-bracket from the Tenant's door, the Tenant was able to access her telephone in her room and she called the police. While the Tenant waited for the police to come, the drugstore owner left.

After these attempts to lock the Tenant out, the Landlord's staff implemented a new passcode for the building and refused to provide the number to the Tenant. The Tenant was unable to leave the building because then she would not be able to re-enter the building. The Tenant testified that she requested the passcode from the Landlord both verbally and by email.

The Landlord testified that the coastal health team was called because the Tenant was looking like a "*walking skeleton*". The Landlord said she was worried the Tenant would die on their property. The Landlord said the L-bracket was put on the Tenant's door to protect the Tenant's belongings while she was away. The Landlord asked why did the Tenant come in at night to try and gain access to her rental unit. The Landlord maintained that the new building passcode was provided to the Tenant.

The Tenant replied that she has a lock on her door, and does not need the extra lock put on by the Landlord's staff. Also, if the extra lock was put on to protect her belongings, why would staff threaten the people that the Tenant brought into the building to help her regain access to her rental unit. Instead, why did the staff not help the Tenant get back into her rental unit. The Advocate states there is no time restrictions on when the Tenant can have access her rental unit. Daytime hours only should not be imposed on the Tenant as the fit time to enter her rental unit.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Section 30 of the Act states that the Landlord must not unreasonably restrict the Tenant's access to residential property. Further, the Landlord is **warned** that Section 31 of the Act prohibits changes to locks and other access. It states in part:

31 (1) *A landlord must not change locks or other means that give access to residential property unless the landlord provides each tenant with new keys or other means that give access to the residential property.*

I find on a balance of probabilities that the Landlord has restricted the Tenant's access to the residential property and the rental unit. On one occasion this rendered the Tenant homeless and left her to sleep out on the streets in an unsafe area of the city. I find the Landlord's reason for putting the L-bracket locks on the Tenant's door as needless since the Tenant already has a lock on her door, so this was to serve another purpose.

I grant the Tenant an Order of Possession for her rental unit pursuant to Section 54 of the Act which can be used to show police or other emergency staff her tenancy rights. The Order of Possession is in effect as long as the Tenant is entitled to occupy the rental unit under the tenancy agreement.

Conclusion

The Tenant is granted an Order of Possession for her rental unit. The Order of Possession is in effect as long as the Tenant is entitled to occupy the rental unit under the tenancy agreement.

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: May 09, 2022

Residential Tenancy Branch