



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT LIMITED PARTNERSHIP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to have the landlord comply with the Act, regulation and/or tenancy agreement.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions at the hearing

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

Issue(s) to be Decided

Should the landlord be ordered to comply with the Act?

Background and Evidence

The tenancy began on July 1, 2018.. Rent in the amount of \$1,095.00 was payable on the first of each month. The tenant's portion of rent is determined by BC Housing. A security deposit of \$547.50 was paid by the tenant. The tenant rental unit is a bachelor unit.

The details in the tenant's application are as follows:

"I have been harassed by the neighbour below me (Unit #114) both verbally with homophobic/abusive comments, threats and false noise complaints and am requesting that the landlord comply with the Residential Tenancy Act for my right

to Quiet Peace and Enjoyment in my suite. I do not feel safe. I have requested a trf. from BC Housing. The landlord also previously offered to find housing but has since gone back on their word”.

[Reproduced as written]

The tenant testified that they never reported any incidents to the landlord until they received a written warning about a complaint they had received about them in April 2020. The tenant stated that they did not notify the landlord of these complaints at the time and did not want to “rock the boat”.

The tenant stated at that time the landlord had agreed to have them moved into another unit when that became available. The tenant stated since then there has been changes in the landlord’s agent and they still have not been moved.

The landlord’s agent testified that they were unaware of any issues with the tenant and the other occupant. The agent stated that the tenant has been approved to be transferred; however, the tenant wants to go to a one-bedroom unit, rather than a bachelor unit that was available, and the tenant will have to wait for the availability of a one bedroom.

The landlord’s agent testified that they have also issued the other occupant a warning letter not to communicate with the tenant and to come to them directly.

Analysis

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

In this case, I have no authority under the Act to order the landlord to transfer the tenant to another unit. Further, it appears the landlord has considered the tenants request and it has been approved; however, the tenant does not want a bachelor suite, which was available, and a one-bedroom is not. The tenant will have to wait until such time as a one bedroom becomes available or alternative accept another bachelor unit. I cannot find the landlord has breach the Act.

In this case, the tenant is alleging ongoing harassment by another occupant. However, the tenant has not provided any recent incidents that have occurred since May 3, 2020. A landlord cannot be found to have breached the Act, when not notified of an incident or ongoing incidents.

The tenant must notify the landlord stating the date and time of incident and what occurred, without that the landlord does not have the ability to address the tenant's concern and investigate the validity of the complaint. While I accept the tenant does not want to "rock the boat"; however, a landlord cannot be found to have breached the Act or failed to take reasonable step when not notified that an incident occurred or that the issues are on-going.

Further, the landlord has written the other occupant a warning letter since notified of the earlier incident. I have no evidence before me that this has been an ongoing issue.

I informed the tenant at the hearing, if they are ongoing issues with the occupant below them, to immediately notify the landlord in writing at the time the incident occurs and document the time, date, who was involved and the details of the incident. This is the only way the landlord can reasonably be expected to address those complaints.

This would also give the landlord the ability to end the other occupant's tenancy under section 47 of the Act, as they would have to have documentary evidence to support ending the tenancy, without any evidence the landlord would not be successful as ending a tenancy is significant and the reasons for ending the tenancy must be supported by documentary evidence, which can only be provided by the party alleging the incidents.

Conclusion

The tenant's application is dismissed. I am not satisfied that the landlord has breached the Act.

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 24, 2022

Residential Tenancy Branch