



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RP, OLC, LAT, LRE, RR, MNDCT, FFT

Introduction

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

1. An Order for repairs - Section 32;
2. An Order for the Landlord’s compliance - Section 62;
3. An Order allowing a lock change - Section 70;
4. An Order restricting the Landlord’s entry - Section 70;
5. An Order for a rent reduction - Section 65;
6. A Monetary Order for compensation - Section 67; and
7. An Order to recover the filing fee for this application - Section 72.

The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions. The Parties confirmed exchange and receipt of their evidence packages and that no recording devices were being used for the hearing.

Preliminary Matter

The Tenant states that the most urgent matters are in relation to the Landlord’s entry and the lock change and that these matters are related to each other. The Tenant did not dispute that the remaining claims are not related to the entry and locks and the particulars in the Tenants’ application do not indicate that the remaining claims are related to the entry and locks.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure provides that claims made in an application must be related to each other and unrelated claims may be dismissed with or without leave to reapply. As the remaining claims of the Tenants are not related to the matters of the Landlord's entry and locks I dismiss the claims for repairs, the Landlord's compliance, the rent reduction and compensation with leave to reapply. Leave to reapply does not extend any limitation period.

Issue(s) to be Decided

Are the Tenants entitled to a restriction on the Landlords' entry?

Are the Tenants entitled to a lock change?

Are the Tenants entitled to recovery of the filing fee?

Background and Evidence

The Tenants' application sets out that the tenancy started on December 31, 2017, that rent of \$2,500.00 is payable on the first day of each month and that the Tenants paid a security deposit of \$1,250.00 and a pet deposit of \$1,000.00. The Parties did not turn their minds to these facts.

The Tenant states that they are requesting that only the Landlord AA be allowed entry and that Landlord SM be restricted from all entries. The Tenant states that this claim is made due to multiple instances of bullying, intimidation and attempts to enter by Landlord SM. The Tenant states that on February 10, 2022 the Landlord gave the Tenants notice of entry for February 16, 2022 in order to take photos for the sale of the unit. The Tenant states that upon receipt of the notice of entry the Tenant asked the Landlord for another date in the following week as they were to be out of town until February 16, 2022. The Tenant states that the Landlord was asked for more time as Tenant KN had legal files spread across the unit as Tenant KN works as a paralegal for the person named as the Tenant's legal counsel in this application. The Tenant states that the Landlord did not respond to their request and that they only showed up at the unit on February 16, 2022. The Tenant states that Landlord AA did not cause any

problems that day and that Landlord SM did not take the Tenant's concerns about the legal files seriously. The Tenant states that they hope the other Landlord will take their concerns seriously. The Tenant states that eventually on February 16, 2022 the Parties agreed to postpone the entry for the photos to February 21, 2022.

The Tenant states that on February 21 the Tenants were returning to Canada and that Tenant MP was randomly selected for a covid test. The Tenant states that the Tenant had to sign a document that they would distance themselves until the test results were obtained. The Tenants did not provide a copy of this document. The Tenant states that they were given a document about the requirement to distance by the border officials to post on their unit door. The Tenant states that this notice was placed on their door and that the Landlord was informed that entry could not occur as agreed. The Tenant did not provide a copy of this notice. The Tenant states that despite being informed that the inspection could not occur the Landlord appeared at the door and tried to enter the unit with a key while the Tenants held the door locked. The Tenant states that they also called the police about the entry and that the police heard the Landlord yelling at the Tenants during the call. The Tenant states that the locks had not been changed by themselves as believed the Landlord. The Tenant states that as a result of these incidents they are entitled to a lock change and a restriction on Landlord SM's entry.

The Landlord states that the realtor was with the Landlord on February 16, 2022 and that the Tenant came out of the unit and refused the Landlord entry. The Landlord agrees that the Tenant had given them the reasons prior to this date and again on February 16, 2022. The Landlord confirms that the Parties then agreed to the delay of the entry to February 21, 2022. The Landlord states that on this morning the Tenants sent a text to the Landlord about the covid test but that there was no notice on the door about the Tenant's requirement to distance. The Landlord states that the Tenants were not required to quarantine as set out in the information link provided to the Landlord by the Tenants. The Landlord states that on February 21, 2022 the Landlord attended the unit and did try to use the key for entry as the Tenants did not answer the door. The

Landlord states that they did not believe the Tenants reason for refusing the access because of their previous behavior in refusing entry.

The Landlord asks how legal documents that are confidential could be spread around the house. The Landlord argues that such documents should be secured in one room and that with such security the Landlord could have inspected the rest of the unit on February 16, 2022. The Landlord states that even with the Landlord offering to restrict the inspection as such the Tenants still denied entry. The Landlord states that the Tenants had received the notice for the February 16, 2022 entry for photos on February 8, 2022 and that on February 10, 2022 the Tenant was given a second notice of entry for the same date February 16, 2022 for an inspection due to the Tenant's request for repairs. The Landlord argues that the Tenants had sufficient time to secure the documents and ready the unit it for the inspection on February 16, 2022.

The Tenant states that they could not prepare the unit prior to February 16, 2022 as they were away on vacation and only returned on February 15, 2022. The Tenant states that Tenant KN works as a paralegal for its legal counsel and handles thousands of pages of legal documents related to real estate matters. The Tenant states that they received the notice for the entry on February 16, 2022 by email on February 10, 2022 while they were away on vacation. The Tenant states that Tenant MP is not part of the legal team working on the documents that were all over the unit. Tenant MP states that while access to these documents by Tenant MP could occur this never happened as Tenant MP is aware of the confidential nature of the documents.

Analysis

Section 72(a) of the Act provides that if satisfied that a landlord is likely to enter a rental unit other than as authorized under section 29, the director, by order, may authorize the tenant to change the locks, keys or other means that allow access to the rental unit. Section 29(1)(b) of the Act provides that a landlord must not enter a rental unit that is subject to a tenancy agreement for any purpose unless 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.

Policy Guideline # 7 provides that where possible the parties should agree beforehand on reasonable times for entry. Where the parties cannot agree on what are reasonable times, and the tenant's quiet enjoyment of the rental unit is interrupted the tenant may apply for arbitration to suspend the rights of the landlord, or an Order that the landlord's right of entry be exercised only on conditions.

It is undisputed that the Landlord gave the Tenants notice to enter for February 16, 2022 and there is no evidence that there were any issues with the service of that notice or the reasons for the notice. It is also undisputed that upon receipt of the notice on February 10, 2022 the Tenants immediately informed the Landlord that they were away at the time and would not be prepared for the inspection. The Landlord SM agreed that they knew of the Tenants' request prior to February 16, 2022 and without response or regard still came to the unit on February 16, 2022. There is no evidence that the Landlord reached out to the Tenants prior to serving the notice to explore a mutual agreement on the entry. Regardless of the concern over legal documents, the mere fact that the Tenants informed the Landlord that they were away and would not return until the day of the inspection, I find that Tenants have substantiated that the Landlord SM acted unreasonably and without regard for the Tenants' privacy concerns in attempting to gain entry on February 16, 2022. This also tends to support the Tenant's evidence that Landlord SM has acted unreasonably on several occasions. For these reasons and as the Tenants are not seeking to stop the Landlords' from their right of entry, I find that the Tenants are entitled to an order that Landlord SM not be involved in any attempts to reach an agreement on entry before a notice is served and if no agreement is reached that Landlord SM not be allowed entry for any future inspections or any other purpose, unless agreed to by the Tenants. The Landlords are at liberty to

be represented by Landlord AA alone or through an agent for the purposes of any entries.

Policy Guideline # 7 provides that where a valid notice has been given by the landlord it is not required that the tenant be present at the time of entry. Where a tenant can prove that the landlord has entered contrary to the Residential Tenancy Act, the tenant may apply to have the locks to the rental unit changed. There is no dispute that the Parties agreed to reschedule the inspection to February 21, 2022 and for this reason I find that the Landlord had a right of entry on that date. As the Tenants provided no supporting evidence that any notice in relation to covid was on the door of the unit on February 21, 2022 and give the Landlord's evidence that no such document was on the door on that date I find on a balance of probabilities that there was no notice present when the Landlord attended the unit. There is no evidence that the Tenants could not be away from the unit for isolation or distancing purposes other than the Tenant's own requirements to be present for inspections due to the presence of legal documents. However, I do not consider this reason to be compelling as the evidence supports that the Tenants had at least from February 16, 2022 to secure the documents. There is no evidence that such documents could not be secured sufficiently to allow access through an agent of the Tenants while the Tenants isolated elsewhere. For these reasons and as the Tenants have not substantiated that the Landlord entered contrary to the Act, I find that the Tenants are not entitled to a lock change. I dismiss this claim.

As the Tenants' claims have met with some success, I find that the Tenants are entitled to recovery of the \$100.00 filing fee and the Tenants may deduct this amount from future rent payable.

Conclusion

I ORDER that Landlord SM not be involved in any attempts to reach an agreement on entry to the unit before a notice is served and if no agreement is reached, I ORDER that

Landlord SM may not enter the unit for any inspections or any other purpose, unless agreed to by the Tenants.

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: June 08, 2022

Residential Tenancy Branch