



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, FFT

Introduction

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

- 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 of the *Act*.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. Both parties were clearly informed of the RTB Rules of Procedure about behaviour including Rule 6.10 about interruptions and inappropriate behaviour, and Rule 6.11 which prohibits the recording of a dispute resolution hearing by the attending parties. Both parties confirmed that they understood.

As both parties were in attendance I confirmed that there were no issues with service of the tenant's application for dispute resolution ('application') and amendment. In accordance with sections 88 and 89 of the *Act*, I find the landlord duly served with the tenant's application and amendment. As all parties confirmed receipt of each other's evidentiary materials, I find that these were duly served in accordance with section 88 of the *Act*.

Issue(s) to be Decided

Is the tenant entitled to an order for the landlord to comply with the *Act*?

Is the tenant entitled to recover the cost of the filing fee from the landlord for this application?

Background and Evidence

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

This tenancy originally began on September 1, 2012. Monthly rent is currently set at \$962.00, payable on the first of the month. The landlord had collected a security deposit in the amount of \$400.00, which the landlord still holds.

The tenant filed this application as the landlord imposed age restrictions for residents of the building sometime in 2017 when the building was converted to senior's housing. As the tenant and their ex-husband were already residents at the rental building, they were grandfathered when the new age restrictions were imposed. The tenant's ex-husband moved out on March 1, 2018.

The tenant formally applied to the landlord for permission to have their current boyfriend move in, but received a rejection letter dated March 29, 2022 from the landlord informing the tenant that their request was denied because the boyfriend does not meet age requirements. The tenant testified that they have never accepted any new rules, and argued that they should be bound by the original tenancy agreement, which does not include any age restrictions. The tenant testified that no amendments have been signed by either party for that agreement.

The landlord confirmed that the building is now classified as senior's housing, and residents must be at least 60 years old.

Analysis

I have considered the evidence and testimony before me, and I find that it is undisputed that the tenant entered into a tenancy agreement for the current rental unit as of September 1, 2012. It is undisputed that the building was converted to senior's housing sometime in 2017 where residents must meet the age requirement of at least 60 years old.

I am satisfied that the tenancy agreement is still in effect, and the tenant has not agreed to any amendments or changes. Accordingly, I find that both parties are bound by the same terms of the original tenancy agreement until the agreement is ended or amended in accordance with the *Act*, which does not include any provisions for a restriction based on age. I confirm that this tenancy agreement applies to this tenancy,

and any changes imposed after September 1, 2012 do not apply to this tenancy. Both parties are bound by this tenancy agreement, as well as the *Residential Tenancy Act*. I decline to make any further findings as neither party had filed any further applications that are set before me at this time, including any applications for an Order of Possession or pertaining to any Notice to End Tenancy for too many occupants. Both parties are at liberty to apply for further remedies as allowed under the *Act* if required.

As the tenant was successful in their application, I allow the tenant to recover the filing fee for this application. I allow the tenant to implement a monetary award of \$100.00 for the above monetary order by reducing a future monthly rent payment by that amount until the total monetary award is paid in full. In the event that this is not a feasible way to implement this award, the tenant is provided with a Monetary Order in the amount of \$100.00 and the landlord must be served with **this Order** as soon as possible. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

Conclusion

I find that that both parties are bound by the same terms of the original tenancy agreement until the agreement is ended or amended in accordance with the *Act*, which does not include any provisions for a restriction based on age. I confirm that this tenancy agreement applies to this tenancy, and any changes imposed after September 1, 2012 do not apply to this tenancy. Both parties are bound by this tenancy agreement, as well as the *Residential Tenancy Act*.

I allow the tenant to implement a monetary award of \$100.00 for recovery of the filing fee by reducing a future monthly rent payment by that amount until the total monetary award is paid in full. In the event that this is not a feasible way to implement this award, the tenant is provided with a Monetary Order in the amount of \$100.00 and the landlord must be served with **this Order** as soon as possible. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: August 24, 2022

Residential Tenancy Branch