



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A hearing by telephone conference was held on August 25, 2022. The Tenant applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the "Act").

The Tenant attended the teleconference hearing; however, the Landlord did not. The Tenant testified that she sent a copy of the Notice of Dispute Resolution Proceeding and her initial evidence package to each of the named respondents by registered mail on May 12, 2022. Subsequently, the Tenant filed an amendment to her application, on August 3, 2022, and sent this amendment, and her updated evidence package to each of the named respondents on August 3, 2022. Proof of mailing was provided into evidence for all of the above noted packages. Pursuant to section 90 of the Act, I find the respondents are deemed to have received the packages on May 17, 2022, and August 8, 2022, respectively, which is 5 days after they were sent by registered mail.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters – Amendment

I note the Tenant initially applied for several remedies against the respondents named on this application, G.P. and R.P. The Tenant stated that after she filed her application in April 2022, she received a 2 Month Notice to End Tenancy for Landlord's Use (the Notice) on or around July 7, 2022. The Tenant provided a copy of the Notice into evidence, which shows that it was issued and signed by a Landlord named S.P. The

Tenant filed an amendment with our office to amend this proceeding to include her request to dispute the Notice issued by S.P. However, upon further consideration, I disallow the Tenant's amendment to include the her request to cancel the Notice because this proceeding involves 2 different respondents (as opposed to the Landlord identified on the Notice).

Should the Tenant wish to apply to cancel the Notice she received on or around July 7, 2022, she must correctly name the Landlord identified on the Notice as a respondent, and serve this individual with the proper hearing documentation to allow them an opportunity to respond. The Tenant is not allowed to amend her application against G.P. and R.P. to include a request to cancel a Notice issued by a party that was not named on the initial application.

I note the Tenant has an upcoming hearing scheduled for September 29, 2022, to dispute this Notice, where she has named G.P., R.P., and S.P as respondents. Although the Tenant's request to amend this proceeding to include the cancellation of the Notice is not allowed, the Tenant may wish to continue with her application already scheduled for September 29, 2022.

Preliminary and Procedural Matters – Severing Issues

The Tenant applied for multiple remedies under the *Act*, some of which were not sufficiently related to one another.

Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After looking at the list of issues before me, I determined that the most pressing and related issues deal with the Tenant's request to have the locks changed and to restrict the Landlord's access due to safety concerns. As a result, I exercised my discretion to sever all of the Tenant's application, with the exception of the following grounds:

- I want to suspend or set conditions on the landlord's right to enter the rental unit or site
- I want authorization to change the locks to the rental unit

Issues to be Decided

- Is the Tenant authorized to change the locks to the rental unit?
- Should there be conditions on the Landlord's right to enter the rental unit?

Background and Evidence

The Tenant stated that she moved into the rental unit around June 1, 2021. The Tenant explained that she rents a basement suite from the Landlord, G.P., who lives above her. The Tenant explained that she signed a tenancy agreement with G.P. but he never provided her with a written copy. The Tenant explained that she and G.P. were the only parties to sign the tenancy agreement. The Tenant further stated that the other Landlord named on this application is G.P.'s mother, who lives elsewhere.

The Tenant stated nearly right away after she moved in, she started to have issues with appliances, and had disputes with the Landlord, G.P., over repairs. The Tenant stated that she had a previous hearing where the Landlord was ordered to make repairs, and the Tenant was partly successful in a monetary claim. The Tenant stated that since that time, the situation has escalated, and G.P. has started physically threatening her and her dog, and threatening to kill both of them.

The Tenant explained that on or around March 17, 2022, at 2:30 am, G.P. was yelling at the Tenant through the walls and subsequently entered her rental unit, without permission or notice. The Tenant stated that G.P. entered her unit and threatened to slit her dogs throat and to cause the Tenant physical harm. The Tenant stated that she filed a police report immediately and obtained a restraining order against G.P. A copy was provided into evidence. The Tenant also provided copies of the text messages from G.P. showing he was threatening her with violence and hostility.

The Tenant stated that G.P. has breached his restraining order twice and still comes onto the property. The Tenant fears for her safety and requests that she be given permission to change the locks on the rental unit to prevent G.P. from entering, given their history. The Tenant stated that she has lost work as she feels she cannot leave the rental unit for fear that her dog will be killed.

Analysis

In this case, the onus is on the Tenant to establish her claim.

I find it important to note the following portion of the Act:

Prohibitions on changes to locks and other access

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.*

(1.1) *A landlord must not change locks or other means of access to a rental unit unless*

(a) the tenant agrees to the change, and

(b) the landlord provides the tenant with new keys or other means of access to the rental unit.

(2) *A tenant must not change locks or other means that give access to common areas of residential property unless the landlord consents to the change.*

(3) *A tenant must not change a lock or other means that gives access to his or her rental unit unless the landlord agrees in writing to, or the director has ordered, the change.*

Director's orders: landlord's right to enter rental unit

70 (1) The director, by order, may suspend or set conditions on a landlord's right to enter a rental unit under section 29 [landlord's right to enter rental unit restricted].

(2) If satisfied that a landlord is likely to enter a rental unit other than as authorized under section 29, the director, by order, may

(a) authorize the tenant to change the locks, keys or other means that allow access to the rental unit, and

(b) prohibit the landlord from replacing those locks or obtaining keys or by other means obtaining entry into the rental unit.

Landlord's right to enter rental unit restricted

29 (1) *A landlord must not enter a rental unit that is subject to a tenancy agreement for any purpose unless one of the following applies:*

(a) the tenant gives permission at the time of the entry or not more than 30 days before the entry;

(b) at 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;

(c) the landlord provides housekeeping or related services under the terms of a written tenancy agreement and the entry is for that purpose and in accordance with those terms;

(d) the landlord has an order of the director authorizing the entry;

(e) the tenant has abandoned the rental unit;

(f) an emergency exists and the entry is necessary to protect life or property.

(2) A landlord may inspect a rental unit monthly in accordance with subsection (1) (b).

I have reviewed the testimony and evidence and I find the escalation in G.P.'s threatening behaviour is troubling and problematic. I accept the undisputed testimony and evidence on this matter, and I find the Landlord has a blatant disregard for the Tenant's rights under the Act. Specifically, I find the G.P. violated section 29(1) of the Act when he entered the rental unit in the middle of the night, threatening the Tenant, and her dog. I find this shows a blatant disregard for the Act, and the Tenant's wellbeing. Further, the Tenant explained that G.P. has a restraining/no contact order against him, and has since March 2022. However, she continues to see him on the property, and has had to involve police on numerous occasions. Ultimately, pursuant to section 70(1) of the Act, I find it appropriate to set conditions on G.P.'s right to enter the rental unit. I Order that G.P. not enter the rental unit, as long as there is an active no contact/restraining order in place, for any reason. Should G.P. require access to the rental unit for tenancy related matters, he must appoint an agent to conduct lawful inspections on his behalf. G.P. must provide the Tenant with the name of any agent, prior to an inspection and any inspection must still comply with the requirements under section 29 of the Act.

Further, with respect to the Tenant's request to change the locks, and pursuant to section 70(2) of the Act, I authorize and Order that the Tenant may re-key/change the locks on the entryway doors to the rental unit. The Tenant must pay for this but she may deduct the expense of doing so from the following month's rent. The Tenant must retain and provide a copy of the receipt to the Landlords (or agent of), for the lock change, prior to deducting the amount from rent. I prohibit the Landlord from replacing the locks. The Tenant is not required to provide a key to the Landlords, and any future inspections must be coordinated between the Landlord's agent, and the Tenant. The Landlord (agent of) must provide reasonable notice in accordance with the Act, and the Tenant must reasonably accommodate any potential inspection. I Order the Tenant to grant access upon receipt of a valid Notice of Entry, as laid out above.

As the Tenant was successful with her application, I grant the recovery of the filing fee against the Landlord. The Tenant may deduct the amount of \$100.00 from 1 (one) future rent payment.

Conclusion

The Tenant's application is successful and she is authorized to change the locks, as laid out above.

The Tenant may deduct the cost of the lock change and the filing fee from a future rent payment.

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 29, 2022

Residential Tenancy Branch