



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;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The tenant represented themselves with the assistance of a friend. The landlords were represented by an agent (the "landlord").

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and the parties each testified that they were not making any recordings.

As both parties were present service was confirmed. The parties each testified that they received the respective materials and based on their testimonies I find each party duly served in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Is the tenant entitled to the relief sought?

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

The parties agree on the following facts. This periodic tenancy began in 2006 with the applicant and a co-tenant on the signed tenancy agreement as tenants. A copy of the original tenancy agreement was submitted into evidence. The current monthly rent is \$2,804.00 payable on the first of each month. The co-tenant has passed away and the applicant is currently the sole tenant under the agreement.

The tenant seeks an order of compliance to allow them to allow a roommate to move into the rental unit and be added to the tenancy agreement.

The landlord testified that they have received some applications from the tenant for additional occupants but due to conflicting and contradictory information provided on these applications the requests were denied.

Analysis

I find the copy of the tenancy agreement signed by the parties and dated June 2, 2006 to be a binding and enforceable agreement that conforms to the requirements of section 13 of the *Act*. The agreement identifies the parties, the address of the rental unit and includes the standard terms.

The agreement includes the following clause regarding the use of the premises:

Use of Premises – to use the Premises for the purpose of a private residence, occupied only by the Lessee;

Pursuant to section 14(2) provides that a tenancy agreement may only be amended if both parties agree to an amendment.

In the present case both parties confirmed that they are aware that one of the co-tenants has passed away and this tenancy has continued with the tenant as the sole occupant.

The tenant now seeks an order of compliance allowing them to add a co-tenant but I find no provision in the *Act*, regulations or in the tenancy agreement between the parties which provides that the landlord must allow the tenant to amend the agreement and add additional occupants.

In fact, the Act provides the opposite and sets out that an agreement can only be amended to add additional occupants with the agreement of both parties. The provision is further elaborated in Policy Guideline 13 which states in relevant part:

If a tenant allows a person to move into the rental unit, the new person is an occupant who has no rights or obligations under the tenancy agreement, **unless the landlord and the existing tenant agree to amend the tenancy agreement to include the new person as a tenant.** Alternatively, the landlord and tenant could end the previous tenancy agreement and enter into a new tenancy agreement to include the occupant. [emphasis added]

It is clear that there is no requirement for the landlord to agree to amend the tenancy agreement and the parties must reach a meeting of minds in order to enter into a valid and enforceable amendment to the present agreement. I find no breach by the landlord of the Act, regulations or tenancy agreement that would give rise to an order of compliance.

Accordingly, I dismiss the tenant's application in its entirety without leave to reapply.

I note parenthetically that Policy Guideline 13 further provides the following guidance regarding unauthorized occupants:

Before allowing another person to move into the rental unit, the tenant should ensure that additional occupants are permitted under the tenancy agreement, and whether the rent increases with additional occupants. Failure to comply with material terms of the tenancy agreement may result in the landlord serving a One Month Notice to End Tenancy for Cause.

Conclusion

The tenant's application is dismissed without leave to reapply.

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: October 25, 2022

Residential Tenancy Branch