



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, FFT

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking an order that the landlords comply with the *Residential Tenancy Act*, regulation or tenancy agreement; and to recover the filing fee from the landlords for the cost of the application.

The tenant and one of the named landlords attended the hearing, as well as a person identified as the owner of the numbered company named in the tenancy agreement. The tenant was also accompanied by a person for support.

The tenant and the landlords each gave affirmed testimony, and the parties were given the opportunity to question each other and to give submissions.

The tenant indicated that all evidence was provided to the landlord, but the tenant did not receive all of the evidence listed in the landlord's cover page. The tenant received 23 pages and a USB on July 20, 2023 by registered mail. That information was disputed by the landlord, who indicated that the tenant has received everything, and on this past Saturday the landlord confirmed it had been received, and 3 times the evidence was given to the tenant. The hearing was originally scheduled for August 11, 2023 and rescheduled.

The record shows that the tenant missed the declaration date and the hearing was rescheduled to August 29, 2023.

I accept that the landlord has served all of the evidence to the tenant, however I am not satisfied that the tenant is able to view the USB. Therefore, all evidence provided by the parties, with the exception of the USB, has been reviewed and the evidence I find relevant to the application is considered in this Decision.

Issue(s) to be Decided

Has the tenant established that the landlord should be ordered to comply with the *Act*, regulation or tenancy agreement with respect to additional occupants?

Background and Evidence

The tenant testified that this month-to-month tenancy began on June 1, 2007 and the tenant still resides in the rental unit. Rent was \$550.00 payable on the 1st day of each month, which has been increased over time and is now just under \$800.00 per month, and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$275.00, and collected a pet damage deposit on September 14, 2015, both of which are still held in trust by the landlord.

The tenant has provided a copy of a One Month Notice to End Tenancy For Cause dated May 23, 2023 and containing an effective date of vacancy of June 1, 2023, which has been marked CANCELLED. The tenant testified that it was put through the tenant's door. The reasons for issuing it state:

- Tenant has allowed an unreasonable number of occupants in the unit/site/property/park;
- Tenant or a person permitted on the property by the tenant has:
 - significantly interfered with or unreasonably disturbed another occupant or the landlord.

The tenant contacted the Residential Tenancy Branch and was advised that it wouldn't count but could be used against the tenant. The tenant also received an official notice to end the tenancy after that by registered mail. The tenant has disputed it and the hearing is scheduled for September 21, 2023.

The tenant further testified that the landlord (CM) gave the tenant an application for the tenant's boyfriend to occupy the rental unit, which was a 1 page sheet, not a lengthy application like the application the tenant had completed. The application was completed, and the tenant attached a letter with it as well, a copy of which has been provided for this hearing. The landlord's office processed it and the tenant received a response indicating that if the tenant had any questions to contact the landlord's office. Prior to doing so, the tenant contacted the Residential Tenancy Branch. The tenant's boyfriend has his own residence. When the office gave the landlord (CM) the

information, she refused to look at the papers, held up her hand and said the office had made the decision.

The tenant asked to meet CM in the office, but she was busy that day, and the tenant texted about it the next day, but the landlord (CM) refused to look at the documents. The Residential Tenancy Branch had advised to discuss things with the landlord. The landlord did not ask for any supporting documents, and the landlord said she would help and nothing else was said, except that the application was denied because of a credit score.

Paragraph 5 of the tenancy agreement states:

5. The person(s) listed above shall be the only permanent occupant(s) of the premises herein. When a guest remains for a continuous period of in excess of two weeks then he/she shall be “deemed” to be a permanent occupant under the agreement. Such additional permanent occupants are not acceptable to the Landlord unless permission is given in writing. Additional permanent occupant(s) must make application of tenancy and sign a tenancy agreement, if approved by the Landlord. Such approval will not be unreasonably withheld. Without permission, this agreement will be breached and the Landlord may then issue termination notice. Under no circumstances, including any natural increase in the Tenant’s family, shall the number of permanent tenants exceed 1.

The first hearing was re-scheduled, but not at the request of the tenant, and the tenant had to re-send everything. The tenant doesn’t have a computer to view the USB provided as evidence from the landlord.

The landlord (CM) testified that aback in December the tenant indicated that she wanted her boyfriend to move in and the landlord said to fill out the application and the office will look at it. The tenant asked if the landlord would help, and the landlord agreed, but never said that she would provide a letter to the office. Based on the credit merit, the application was denied, and the landlord told the tenant that the application must be complete, but not all information was provided in the application.

The tenant’s boyfriend got aggressive. The assistant manager was coming up the stairs and the tenant’s boyfriend got aggressive. The decision was based on what the office said, who also said that they don’t let others occupy a bachelor suite. The landlord was not discriminating; it’s the way the office does it.

The second landlord (MT) testified that he is the owner of the numbered company named in the tenancy agreement.

The landlord came to the format of an application and bank account information because they had their own previously and were not able to do credit checks.

Equifax is the system that the landlord uses, and all information for their system must be provided to find the person. The landlord simply copies their questions on the application, which now enables the landlord to make credit checks.

The other landlord (CM) does not ultimately make decisions about tenancies, but the head office runs credit checks and makes the decision to enter into tenancy agreements with someone. Not only would the landlord have turned the boyfriend down due to his credit history, but it was almost irrelevant; the landlord would have turned him down in a 2 bedroom unit. It is clear in the tenancy agreement and standard practice.

The landlord ran the boyfriend's report through Equifax, and prior to that the landlord (CM) told the tenant that if she wanted to move someone in, a 1 bedroom unit was offered, but declined by the tenant.

The landlord has acted reasonably and fairly. The landlord only allows 1 person in a bachelor suite.

Analysis

Firstly, I refer to Residential Tenancy Policy Guideline #19 – Assignment and Sublet, which states that a landlord may not unreasonably withhold consent for a tenant to assign or sublet. However it also explains that if the tenant named in the tenancy agreement remains in the rental unit, it is not a sublet.

The Policy Guideline goes on to say that:

While terms restricting the number of occupants or requiring prior consent of the landlord for additional occupants are not standard terms of a tenancy agreement under the Act, the parties may include such clauses and may also set out in their written tenancy agreement that the amount of rent increases for additional occupants, in accordance with s. 13 (2)(iv) and s. 40 of the Act. Tenants and landlords should also be aware of s. 6 (3) of the Act, which states: 3) A term of a tenancy agreement is not enforceable if (a) the term is inconsistent with this Act or the regulations, (b) the term is unconscionable, or (c) the term is not

expressed in a manner that clearly communicates the rights and obligations under it. Occupants should be aware that the director's authority is limited to the relationship between the original tenant and their landlord.

The tenancy agreement in this case states that the tenant will be the sole occupant of the rental unit and additional permanent occupants are not acceptable to the Landlord unless permission is given in writing, which will not be unreasonably withheld. The landlords' position is that it is a bachelor suite, meant for single occupancy, and that the credit history of the tenant's boyfriend was not positive. In the circumstances, I do not find that to be unreasonable. A landlord has a right to reject an application for tenancy.

I am not satisfied that the tenant has established that the landlords have withheld the consent unreasonably, and I dismiss the tenant's application.

Since the tenant has not been successful with the application, the tenant is not entitled to recovery of the filing fee.

Conclusion

For the reasons set out above, the tenant's application is hereby dismissed in its entirety 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: August 31, 2023

Residential Tenancy Branch