



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes PSF, FFT x 2

Introduction

This hearing dealt with 2 joined tenant Applications for Dispute Resolution (joiner applications) Under the *Residential Tenancy Act* (Act) seeking an order for the landlord to provide services and facilities required by the tenancy agreement or law. The tenants also sought the return of the filing fees paid by each tenant.

The tenants and an agent for the landlord attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

Both parties confirmed their email addresses for service of this decision and orders.

Issue to be Decided

Are the tenants entitled to an order for the landlord to provide services and facilities required by the tenancy agreement or law?

Are the tenants entitled to the return of the filing fees paid by each tenant?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of both parties, not all details of their respective submissions and arguments are reproduced here. The relevant and important aspects of the tenants' and agent's claims and my findings are set out below.

Tenant L.H. provided the following undisputed testimony regarding her tenancy:

- This tenancy began May 1, 1983 and is currently ongoing,
- Monthly rent in the amount of \$599.75 is payable on the first day of each month,
- A security deposit of \$50.00 was paid by tenant L.H. to the landlord.

Tenant D.H. provided the following undisputed testimony regarding his tenancy:

- He moved into a different unit in the subject rental building in 1989 and at some point moved into the current unit, but he could not recall when
- Monthly rent in the amount of \$599.75 is payable on the first day of each month,
- A security deposit of \$50.00 was paid by tenant D.H. to the landlord.

Written tenancy agreements were signed by both parties and copies were submitted for this application.

The tenants are seeking a finding that the storage lockers they were each independently assigned at the start of their tenancies in the subject rental building, are included in rent.

The tenants testified that when they moved into the subject rental building they were each provided with a storage locker as part of their tenancies. The tenants testified that they were never charged extra for their storage lockers and have had possessions in them since the start of their respective tenancies.

The tenancy agreements entered into evidence are silent on the storage lockers.

Both parties agree that sometime in 2021, likely March, the landlord purchased the subject rental building.

Tenant L.H. testified that in August of 2021 she and tenant D.H. received a notice from the landlord to vacate their storage lockers. The above notices were entered into evidence. Tenant L.H. testified that she responded on September 5, 2021 that the storage lockers have been included in rent since the beginning of their tenancies. The September 5, 2021 email was entered into evidence. The above testimony was not disputed by the agent.

Tenant L.H. testified that on April 21, 2023 she and tenant D.H. received notices to either (a) vacate their storage lockers by May 5, 2023 because storage is not assigned

to their units by least agreement or (b) pay \$200.00 per month to keep the storage lockers. The April 21, 2023 letters were entered into evidence. The above testimony was not disputed by the agent.

Tenant L.H. testified that on April 28, 2023 she sent a letter to the landlord stating that the storage locker has been a part of her tenancy agreement since the start of her tenancy. The above testimony was not disputed by the agent.

The tenants filed their respective applications for dispute resolution on May 4, 2023.

Tenant L.H. testified that she and tenant D.H. received an email from the landlord in May 2023 requiring them to empty their storage lockers. The tenants entered into evidence an email dated May 2, 2023 stating same and advising that the storage entrance door will be changed on May 5, 2023.

Tenant L.H. testified that her and tenant D.H.'s belongings remain in the storage lockers but that the landlord changed the lock to the storage room on May 5, 2023 which prevented them accessing their storage lockers. The agent agreed that the landlord changed the lock on May 5, 2023.

Tenant L.H. testified that she emailed the landlord and asked for a key to the storage room pending the outcome of this hearing. An email requesting same dated May 4, 2023 was entered into evidence. Tenant L.H. testified that the landlord provided one key to the storage room to herself on June 14, 2023, but did not provide one for tenant D.H.. The agent confirmed that a key to the storage room was provided to the tenant pending the outcome of this hearing.

The agent testified that the landlord requested the tenants remove their belongings from the storage lockers because their tenancy agreements do not state that storage lockers are included in their rent. The agent testified that the tenants have not provided them with any documentation proving that they are each entitled to use the storage lockers.

The agent testified that other tenants associated with the subject rental building are asking for storage lockers and they want to make it fair for everyone.

The agent testified that the previous owners of the building told the landlord that they did not know how the tenants came to have their belongings in the storage lockers and that the tenants had use of them when they purchased the property.

Analysis

All tenancy agreements between a landlord and a tenant with respect to a rental unit and residential property are subject to the Act, unless specifically exempted. The definition of “tenancy agreement” in section 1 of the Act includes tenancy agreements entered into orally, in writing, and by way of implied or express terms. Therefore, the parties are bound by the terms of the oral agreement and written tenancy agreements, including any implied or express terms.

It is undisputed that the tenants have each had use of a storage locker since they became tenants in the 1980s and have never been charged for those lockers. Given the significant duration of the facility/service being provided free of charge, I find that on a balance of probabilities, there was at least an implied term of tenancy that the storage lockers were included in the rent. I find that the storage lockers currently occupied by the tenants are included in their rent.

Section 62(3) of the Act states that I may make any order necessary to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or tenant comply with this Act, the regulations or a tenancy agreement and an order that this Act applies. I order the landlord to give tenant D.H. a key to the storage room to enable access to the storage locker included in his rent.

As the tenants were successful in their applications for dispute resolution, I find that they are entitled to recover from the landlord the filing fees paid by the tenants totaling \$200.00 in accordance with section 72 of the Act.

Conclusion

The storage lockers currently occupied by each tenant are included in the rent for each unit.

I issue a Monetary Order to the tenants for \$200.00. The tenants are provided with this Order in the above terms 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 28, 2023

Residential Tenancy Branch