



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding Birchwood Park Properties Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC

Introduction

This hearing dealt with the Tenants' Applications for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- an order requiring the Landlord to comply with the Act, regulation or tenancy agreement under section 28 of the Act

Tenants C.B., M.L. and G.W. attended the hearing for the Tenants.

Landlord counsel S.D. and Landlord representative A.R. attended the hearing for the Landlord.

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

I find that Landlord B.P.P.L. was served on May 27, 2024, in person in accordance with section 89(1) of the Act.

Service of Evidence

Based on the submissions before me, I find that the Tenants' evidence was served to the Landlord in accordance with section 88 of the Act.

Based on the submissions before me, I find that the Landlord's evidence was served to the Tenants in accordance with section 88 of the Act.

Issues to be Decided

Are the Tenants entitled to an order requiring the Landlord to comply with the Act, regulation or tenancy agreement?

Background and Evidence

I have reviewed all evidence, including the testimony of the parties, but will refer only to what I find relevant for my decision.

Evidence was provided showing that Tenant G.W.'s tenancy began on October 15, 2002, with a monthly rent of \$850.00, due on the first day of the month, with a security deposit in the amount of \$425.00.

Evidence was provided showing that Tenants C.B. and M.L.'s tenancy began on February 1, 2016, with a monthly rent of \$595.00, due on the first day of the month, with a security deposit in the amount of \$297.50.

According to Tenant C.B., Landlord representative A.R. attended the property on May 8, 2024, and gave her a package which included a blank copy of a mutual agreement to end tenancy form and a letter offering \$8,000.00 in compensation if the Tenants would agree to sign it and end the tenancy at 1 pm on September 30, 2024. She testified that she did not know who A.R. was and felt he was aggressive towards her in his offer for her to sign the agreement. Copies of the Mutual Agreement to End Tenancy and mutual release document were submitted as evidence.

According to Tenant G.W., Landlord representative A.R. also attended her rental unit sometime in the middle of May 2024, and gave her a package which included a blank copy of a mutual agreement to end tenancy form and a letter offering \$8,000.00 in compensation if she would agree to sign it and end the tenancy at 1 pm on September 30, 2024. She testified that A.R. told her that the Landlord wished to "gut" the unit and that it would be unsafe and uninhabitable for her to reside in it while the repairs were underway. Copies of the Mutual Agreement to End Tenancy and mutual release document were submitted as evidence.

Landlord counsel testified that the Landlord, who has applied to the Residential Tenancy Branch seeking vacant possession for renovations or repairs under section 49 of the Act, was simply approaching individual tenants in the complex to determine if there was any interest in a mutual agreement to end their tenancy before the Landlord's application is heard. She stated that no pressure was put on the Tenants to sign the offer and argued that the Landlord's attendance at the Tenants' residences and offer of compensation in exchange for mutual agreeing to end the tenancy does not in any way constitute a disturbance of the Tenants quiet enjoyment.

Analysis

Are the Tenants entitled to an order requiring the Landlord to comply with the Act, regulation or tenancy agreement?

Section 28 of the *Act* provides that:

A tenant is entitled to quiet enjoyment including, but not limited to, rights to the following:

- (a) reasonable privacy;
- (b) freedom from unreasonable disturbance;
- (c) exclusive possession of the rental unit subject only to the landlord's right to enter the rental unit in accordance with section 29 [*landlord's right to enter rental unit restricted*];
- (d) use of common areas for reasonable and lawful purposes, free from significant interference.

To prove that there was a breach of quiet enjoyment, the tenant must provide sufficient evidence to show there was a substantial interference with the ordinary and lawful enjoyment of the premises by the landlord's actions or inaction which permitted interference by an external force within the landlord's power to control.

I find that the Landlord's single attendance at each of the Tenants' residences to make an offer of compensation in exchange for their agreement to mutually end the tenancy so that the Landlord could undertake repairs or renovations does not constitute a breach of the Tenants' quiet enjoyment of the rental properties but rather constitutes a legitimate and proactive attempt to resolve an issue with the tenancy in a mutually agreeable way.

For the above reasons, the Tenants' applications for an order requiring the Landlord to comply with the Act, regulation or tenancy agreement under sections 28 of the Act of the Act is dismissed, without leave to reapply.

Conclusion

The Tenants' applications for an order requiring the Landlord to comply with the Act, regulation or tenancy agreement under sections 28 of the Act 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: July 31, 2024

Residential Tenancy Branch