



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Municipal Affairs

DECISION

Introduction

This hearing dealt with two of the Tenant's applications pursuant to the Residential Tenancy Act (Act) for:

- an order to suspend or set conditions on the Landlord's right to enter the rental unit under section 70(1) of the Act
- a Monetary Order of \$2,374.00 for compensation for monetary loss or other money owed under the Act
- an order requiring the Landlord to comply with the Act, regulation or tenancy agreement under section 62 of the Act

Those listed on the cover page of this decision attended the hearing and were affirmed.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Service of Notice of Dispute Resolution Proceeding (Proceeding Package) and Evidence

As both parties confirmed service of the Proceeding Package and documentary evidence, I find both parties were served with the required materials in accordance with the Act.

Preliminary Matters

Before considering any portion of the application I will first address whether the Tenant fully explained how they arrived at \$2,374.00 for their monetary claim. In their application I find the Tenant failed to complete a Residential Tenancy Branch (RTB) Monetary Order Worksheet (RTB Form #37) and failed to provide details or a calculation of the claimed amount. I find the Tenant's application does not meet the requirements of section 59(2)(b) of the Act, which requires full particulars of the dispute. Therefore, pursuant to section 59(5)(c) of the Act, I refuse the Tenant's application for

violating section 59(2)(b) of the Act. As such, the Tenant's application for compensation for monetary loss or other money owed under the Act is dismissed with leave to reapply.

Issues to be Decided

Is the Tenant entitled to an order to suspend or set conditions on the Landlord's right to enter the rental unit?

Is the Tenant 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.

Both parties agreed that this tenancy started on August 31, 2024, with monthly rent of \$1,600.00 due on the first day of each month. The Tenant paid a security deposit of \$800.00, which was returned to them.

The rental unit is a basement suite in a house (the House). The Landlord occupies a part of the main level and all of the upstairs level of the House.

The Tenant testified that they were harassed and threatened by the Landlord, to include threats of illegal entries of the rental unit and a dispute over their designated parking spot. The Tenant stated that the Landlord filed false claims with the police department in order to intimidate and bully them.

The Tenant referred to email communication that was submitted as part of their documentary evidence, where the Landlord failed to provide proper notice of entry. The Tenant testified that they explained the requirements to the Landlord, and the Landlord did not enter the rental unit at that time.

The Tenant testified that the Landlord did not enter the rental unit at any point, however, they continue to harass them and threaten eviction for non-compliance. The Tenant testified that due to the Landlord's threats, false claims and harassment they feel unsafe, and suffer from deteriorated health that impacts their disability and blood pressure.

The Tenant stated that they feel unsafe and they request an order to change the locks to the main door of the rental unit, and for them to retain the only key, and to add locks to two other points of access from the rest of the House to the rental unit. The other points of access include a set of double doors and a door in the furnace room, both of which connect the rental unit to the rest of the House.

The Tenant referred to their documentary evidence, where they sent an email to the Landlord and stated that they would like all correspondence to occur via email, and they do not wish to have any in person interactions at this time for mental health reasons. Further email communication shows the Tenant's concerns, their suggestion for a mutual end to the tenancy, police involvement related to this dispute, and the Tenant's request to communicate via email only.

The Tenant testified that the Landlord has repeatedly, approximately 11 to 12 times, harassed them by posting to their door letters titled Material Breach Letters (the Letters). The Tenant stated that they seek an order for the Landlord to stop harassing them with the Letters and threats of eviction. The Tenant testified that the Letters are hostile, abusive and include defamatory statements. The Tenant submitted the Letters as part of their documentary evidence.

The Tenant testified that the Landlord listed and identified them on the local Bad Tenant's List (the List), a list accessible through on-line platforms, such as Facebook. A copy of the List was submitted in evidence.

DS attended the hearing as a support person for the Landlord. DS stated that the Landlord did not enter the rental unit at any point, and that the parties have not spoken to one another since September 15, 2024. DS stated that the Tenant has made allegations, that are not supported by dates or times, but are rather vague allegations of not feeling safe.

DS stated that towards the starts of the tenancy the Landlord erred in not providing all required information for entry of the rental unit, as per the Act. DS stated that the Landlord did not follow through with entry of the rental unit at that time and, thereafter, served all notices to enter as per the requirements of the Act.

DS stated that the Tenant refused all of the Landlord's notices to enter for inspection of the rental unit, to include the Landlord's attempt to investigate a complaint of gasoline odour made by the Tenant, and routine monthly inspections. DS testified that approximately 10 to 12 Letters were submitted to the Tenant since the end of November 2024, and all were in relation to the Landlord's notice for entry, or denied entry by the Tenant, and the Landlord's repeated attempts and notifications to enter the rental unit. DS stated that all attempts to enter have been denied by the TT.

DS stated that the Landlord serve to the Tenant the One Month Notice to End Tenancy for Cause and will not send further letters to them.

With respect to the content of the Letters, DS testified that the parties have a litigious relationship. DS stated that the Tenant continuously denied entry of the rental unit, and the Landlord responded by issuing the Letters and their concerns. DS stated that both parties have made allegations against one another, but the Letters were only submitted as Material Breach Letters in response to the denied entries.

Analysis

When two parties to a dispute provide equally plausible accounts of events or circumstances related to a dispute, the party making the claim has the burden to provide sufficient evidence over and above their testimony to establish their claim.

Based on the relevant oral and written evidence, and on a balance of probabilities, meaning more likely than not, I find as follows:

Is the Tenant entitled to an order to suspend or set conditions on the Landlord's right to enter the rental unit?

Section 70 of the Act states for an Arbitrator to suspend or set conditions on a landlord's right to enter the rental unit if they are satisfied that the landlord is likely to enter the rental unit in contravention of section 29 of the Act, which requires the landlord to give 24 hours written notice before entering the rental unit. The arbitrator may authorize the tenant to change the locks, keys or other means that allow access to the rental unit, and prohibit the landlord from replacing those locks or obtaining keys or by other means obtaining entry into the rental unit.

In this case, I find the evidence before me does not support the Landlord's breach of the Act, regulation or tenancy agreement. I find the Landlord did not enter the rental unit in violation of section 29 of the Act, nor there is evidence to support that they are likely to enter the rental unit in contravention of section 29 of the Act.

Based on the testimony and evidence presented, I am satisfied that the Landlord is aware of their obligations to comply with section 29 of the Act, and to enter the rental unit as per section 29 of the Act. This is agreed upon by the parties when they both signed the Tenancy Agreement (TA), which includes Clause 13 Landlord's Entry Into Rental Unit.

As stated above, the Landlord has the right to enter and inspect the rental unit as per section 29 of the Act. Further, I find it unreasonable to place restrictions for the Landlord to communicate only via email, as the Landlord has the right to post and deliver notices in accordance with the Act.

For the above reasons, the Tenant's application for an order to suspend or set conditions on the Landlord's right to enter the rental unit under section 70(1) of the Act is dismissed, without leave to reapply.

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

Section 62 of the Act states that an arbitrator 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.

Section 28 of the Act states a tenant is entitled to quiet enjoyment including, but not limited to, freedom from unreasonable disturbance. RTB Policy Guideline 6 (PG 6) states:

A landlord is obligated to ensure that the tenant's entitlement to quiet enjoyment is protected. A breach of the entitlement to quiet enjoyment means substantial interference with the ordinary and lawful enjoyment of the premises. This includes situations in which the landlord has directly caused the interference, and situations in which the landlord was aware of an interference or unreasonable disturbance, but failed to take reasonable steps to correct these.

Temporary discomfort or inconvenience does not constitute a basis for a breach of the entitlement to quiet enjoyment. Frequent and ongoing interference or unreasonable disturbances may form a basis for a claim of a breach of the entitlement to quiet enjoyment.

In this case, I find there is insufficient evidence before me to prove the Landlord impacted and violated the Tenant's right to quiet enjoyment. Further, I find the Tenant failed to prove that the Landlord has failed to comply with the Act, regulation or tenancy agreement.

The documentary evidence shows the Landlord communicated with respect to issues related to the tenancy, to include scheduled inspections and notices for entry, and repeated attempts to gain entry of the rental unit as per section 29 of the Act. I find the situation escalated in November 2024, and resulted in increased and multiple letters posted to the Tenant's door. I accept there are back and forth allegations between the parties, however, I find there is insufficient evidence to prove substantial interference by the Landlord.

Although the Letters include additional language that is unnecessary for the purposes of notice for entry, and has resulted in increased acrimony and tension between the parties, I find these Letters were posted by the Landlord regarding the ongoing issue of gaining entry, and in compliance with the Act.

Further, based on the testimony and evidence before me, I find the Landlord ceased to serve additional notice of entry and letters, and will not serve additional letters to the Tenant. Instead, the Landlord has issued a One Month Notice to End Tenancy for Cause and to deal with the matter through the dispute resolution process.

Based on the above, I decline to make an order for the Landlord to comply with the Act, regulation or tenancy agreement.

The Tenant's application for an order requiring the Landlord to comply with the Act, regulation or tenancy agreement under section 62 of the Act is dismissed, without leave to reapply.

Conclusion

The monetary claim filed by the Tenant is dismissed with leave to reapply. The remainder of 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: January 9, 2025

Residential Tenancy Branch