



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, LRE, FF

Introduction

This hearing was convened by way of conference call in response to the tenants application for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; for an Order to suspend or set conditions on the landlords right to enter the rental unit; and to recover the filing fee from the landlords for the cost of this application.

The tenant and her advocate and one of the landlords attended the conference call hearing and gave sworn testimony. The landlord and tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. All evidence and testimony of the parties has been reviewed and are considered in this decision.

Issue(s) to be Decided

- Is the tenant entitled to a Monetary Order for money owed or compensation for damage or loss?
- Is the tenant entitled to an Order to suspend or set conditions on the landlords' right to enter the rental unit?

Background and Evidence

The parties agree that this month to month tenancy started on November 01, 2011. Rent for this unit is \$635.00 per month and is due on the first of each month.

The tenant testifies that the landlord informed the tenant that the property was going to be put up for sale and to make some time for viewings of the rental unit to take place. The tenant states that she wants to be present when the viewings take place as this is her home and she is not comfortable having strangers in her home without either her or her representative being present.

The tenant testifies that the landlord has given written Notice for entry for the realtors to view the unit, for the landlord to look at the electrical panel and for the landlords electrician along with other written notices for scheduled times for viewings to take place.

The tenant feels these schedules are unreasonable as the landlord has asked for entry on Mondays, Thursdays and Saturdays from 12.00 noon to 4.00 p.m. The tenant testifies that she called the landlords realtor and they thought the schedule was ridiculous as they would give the tenant 24 hours notice if a viewing was to take place. The tenant testifies that there has only been one showing of the property in September, 2012.

The tenant testifies that the landlord has told the tenant that she does not have to be in the unit when viewings take place as they can come into her unit anyways after notice has been given. The tenant states that she finds this unreasonable as this is her home and the tenant requests an Order to set conditions on the landlord's right to enter the unit.

The landlord testifies that he has followed all the correct procedures as laid out by the landlords association he is a member of. The landlord testifies that he has always given the tenant the required notice before entry into her unit with a reason, time and date for entry. Copies of these Notices have been provided in evidence.

The landlord testifies that on one occasion the landlord had given the tenant a notice of entry to show the unit to a prospective buyer and when the landlord, the realtor and the buyer turned up the tenant refused them access to view the rental unit.

The landlord testifies that when he wanted to look at the electrical issues he gave the tenant 24 hours notice and when he wanted to return with an electrician he also gave the tenant written notice. The landlord testifies that after the tenant refused them entry the landlord talked to the tenant about putting together a suitable schedule. The landlord testifies that the tenant was being difficult so a schedule was suggested by the landlord's realtor. This schedule follows the correct procedures and is also followed up with 24 hours notice from the realtor if and when they had a viewing. The landlord testifies that these times are not unreasonable and would only be increased if there was someone from out of town who wanted to view the property outside the scheduled times. In this event the tenant would be given a 24 hour written Notice.

The landlord testifies that is normal practise for a realtor to show a property without the owner present and the tenant should not have concerns about not being present as the realtor is bonded and licensed. The landlord testifies that the property has only been shown on two occasions.

Analysis

With regard to the tenants claim for money owed or compensation for damage or loss due to a loss of quiet enjoyment of the rental unit; I refer the parties to s. 29(1) of the Act which states:

29 (1) A landlord must not enter a rental unit that is subject to a tenancy agreement for any purpose unless one of the following applies:

(a) the tenant gives permission at the time of the entry or not more than 30 days before the entry;

(b) at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes the following information:

- (i) the purpose for entering, which must be reasonable;
- (ii) the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees;

Consequently, from the testimony and documentary evidence before me I find the landlord has complied with this section of the *Act* which protects both the tenant and landlord from unlawful entry. There is no provision under the *Act* for me to make a decision in favor of the tenant's application for a loss of quiet enjoyment of the rental unit as the landlord has acted in accordance with the *Act*. I further find the days and times proposed to be reasonable when a landlord is attempting to sell the property and as only two viewings have taken place since the property has been on the market I find the tenants has not suffered unduly as a result of the viewings. If the tenant chooses to be present or have a representative present during the viewings then this is the tenant's choice; however, the landlord is still entitled to gain entry to the unit if the proper notice has been given. This section of the tenants claim is therefore dismissed.

With regard to the tenants claim for an Order to suspend or set conditions on the landlords right to enter the rental unit; I find as the landlord has followed the correct procedures regarding entry then this section of the tenants claim has no merit and is dismissed.

As the tenant has been unsuccessful with this claim I find the tenant must bear the cost of filing her application.

Conclusion

The tenant's application is 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: November 07, 2012.

Residential Tenancy Branch