



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: LRE FF

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

a) An Order to suspend or set limits on the landlord's entry into his unit for inspections in order to protect his privacy and reasonable enjoyment pursuant to sections 28 and 29.

SERVICE

I find that the landlord was served personally with the Application for Dispute Resolution hearing package. He stated they received it.

Issue(s) to be Decided:

Is the tenant entitled to an Order to suspend or restrict the landlord's entry into his unit to ensure his right to privacy and reasonable enjoyment?

Background and Evidence

Both parties attended the hearing and were given opportunity to be heard, to present evidence and to make submissions.

It is undisputed that the tenancy commenced in 2001, rent is \$645 a month plus \$25 for extra parking and a security deposit of \$300 was paid. It is undisputed that the landlord wants to do monthly suite inspections and served a Notice dated November 19, 2013 that they would be entering the suite on November 22, 2013 between 9 a.m. and 5 p.m. for the purpose of "suite inspection". The tenant says he was told by the manager that it was for the purpose of housekeeping and he strongly objects as he believes it is his business how he manages his housekeeping. No one should be able to take issue with something like food sitting out or a bag of dirty clothes. Why should he have to meet their standards? He thinks they are trying to find a reason to evict him because his rent is low. He said he was told that the landlord only has the right to enter to inspect for repair.

The landlord said they are doing monthly suite inspections in the whole building. They want to fulfill their obligations as a landlord under section 32 of the Act to maintain the building in compliance with health and safety standards and to ensure that tenants also fulfill their obligations under section 32(2) to maintain reasonable health, cleanliness and sanitary standards in their units. He emphasized that they have not singled out this tenant but are doing the whole building after serving the requisite notices under section 29 of the Act.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis:

Section 28 of the Act sets out the tenant's right to quiet enjoyment.

28 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];*

Section 29 of the Act provides for the landlord's right to enter the rental unit:

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;*

(2) A landlord may inspect a rental unit monthly in accordance with subsection (1) (b). (emphasis mine)

The Residential Tenancy Policy Guideline 6-2 points out that it is necessary to balance the tenant's right to quiet enjoyment with the landlord's right and responsibility to maintain the premises. The Guideline further explains that "inaction by the landlord which permits or allows ...interference by an outside or external force which is within the landlord's power to control" may be a basis for finding of a breach of quiet enjoyment.

Section 32 of the Act states obligations of both landlord and tenant to maintain the property:

32 (1) *A landlord must provide and maintain residential property in a state of decoration and repair that*

(a) complies with the health, safety and housing standards required by law, and

(b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

(2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.

Although the tenant contended that the landlord only had the duty under section 32 to maintain the residential property in a state complying with health, safety and housing standards and this did not include his unit, I find that the definition of residential property in section 1 of the Act includes in 1(c) the rental unit and common areas. I find the weight of the evidence in this case is that the landlord has a reasonable purpose for doing a monthly suite inspection. I find the landlord has the right and duty to take preventive measures in inspecting individual suites for among other things, possible damage, garbage that might attract rodents, bed bugs and any illegal activities or other hazards which are likely to infringe on the peaceful enjoyment or jeopardize the safety of other tenants.

However, I find the Notice served on this tenant is very general and the Act states the inspection must be for a "reasonable purpose". Therefore, I find if the landlord wants to do a monthly suite inspection, he must state the purpose; for example, it might be to ensure the tenant's compliance with his obligations under section 32 of the Act.

In balancing the landlord's duty to maintain and the tenant's right to peaceful enjoyment, I find entry for monthly inspections for such reasonable purposes is not an infringement on the tenant's right to peaceful enjoyment and is not a threat to evict him.

Conclusion:

I HEREBY ORDER the landlord to state a reasonable purpose on the Notice of Entry for the monthly suite inspection and to follow the provisions in section 29 of the Act.

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 15, 2014

Residential Tenancy Branch