



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 for an order to suspend or set conditions on the landlord's right to enter the rental unit and for the recovery of the filing fee. Both parties attended the hearing and had opportunity to be heard.

Issue to be Decided

Did the landlord provide at least 24 hours notice prior to entering the rental unit? Did the landlord enter the rental unit without the tenant's permission? Is the tenant entitled to the recovery of the filing fee?

Background and Evidence

The tenancy began on November 01, 2013. The tenant testified that there were some maintenance issues with the caulking of the windows and the landlord was notified about the problem.

Both parties agreed that on April 22, 2014, the male tenant and the landlord had a discussion about caulking the windows. The tenant stated that he agreed to allow the landlord into the rental unit between 10am and 11am on April 23, but requested that the landlord call him before coming to the rental unit, in case he got called out to work and was not home.

The landlord stated that the tenant informed him that he had taken a day off work on April 23 and it would be convenient if the landlord came by between 10am and 11am to carry out the required repairs.

The parties had different versions of what transpired on the morning of April 23, 2014.

The landlord stated that he knocked on the door of the rental unit shortly after 10am and no one answered. He proceeded to conduct some repair work in a different unit and returned to the dispute rental unit sometime before 11am.

The landlord stated that he knocked again and when no one answered he used his key to unlock the door. The landlord added that when he unlocked the door, he could see that the bedroom door was partially open and he made eye contact with the female tenant, who was in bed. The landlord stated that he heard the male tenant asking him to wait for a few minutes and therefore he shut the door and waited outside. A short while later, the male tenant opened the door and allowed the landlord inside the rental unit to carry out the repairs.

The tenant stated that he heard the knock but did not have enough time to put on some clothes before the landlord entered the unit. The tenant stated that the landlord walked right into the unit and was in the kitchen when the tenant told him to wait outside. The landlord left the unit and waited outside until the tenant opened the door for him.

The tenant stated that he thinks that the landlord enters the unit in the absence of the tenant and does not feel comfortable with the landlord having access to the unit.

The landlord denied ever entering the unit without the permission of the tenant and stated that since this incident, a new policy has been adopted which requires the tenant to fill out a form to request maintenance and verbal requests for maintenance will no longer be accepted or processed.

Analysis

Regarding the landlord's right to enter the rental unit, Section 29 of the *Residential Tenancy Act* states that 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.

In this case, I find that on April 22, the tenant had given the landlord verbal permission to enter the rental unit on April 23, between the hours of 10am and 11am. The landlord attended the rental unit during the agreed upon time interval in response to the tenant's request for repairs.

The tenant stated that he had instructed the landlord to call before coming to the rental unit and the landlord failed to do so. The landlord agreed that he did not call the tenant prior to attending the unit, but stated that on the day prior, the tenant had given him verbal permission to enter for the purpose of carrying out the repairs and therefore the landlord was unaware that he was required to call prior to the appointment.

The landlord stated that he unlocked the door, heard the tenant's request to wait and shut the door without entering the unit. The tenant stated that the landlord entered the unit and walked in to the kitchen.

In any event, both parties agreed that the landlord waited outside at the request of the tenant and entered when the tenant let him in.

Based on the above, I find that tenant requested repairs and gave the landlord permission to enter the unit at an appointed time for this purpose. If the tenant had made this permission conditional on a phone call from the landlord, then the landlord failed to follow the tenant's direction.

However, even if I accept that the landlord failed to follow the tenant's directions, I find that failing to call to confirm the appointment is not reason enough to suspend or set conditions on the landlord's right to enter the rental unit.

I further find that the landlord has taken steps to ensure that such misunderstandings do not take place in the future, by setting up a formal written process for maintenance requests.

Therefore I find that the tenant has not proven sufficient reason to suspend or set conditions on the landlord's right to enter the rental unit. Since the tenant has not proven his case, he must bear the cost of filing his application.

Conclusion

The tenant's application is dismissed.

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: June 19, 2014

Residential Tenancy Branch

