



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, FF, LAT, OLC

Introduction

This is an application to cancel a Notice to End Tenancy that was given for nonpayment of rent, a request for an order for the landlord to comply with the tenancy agreement, a request for an order authorizing the tenants to change the locks in the rental unit, and a request for recovery of the filing fee.

The applicant(s) testified that the respondent was served with notice of the hearing by personal service on March 24, 2015; however the respondent did not join the conference call that was set up for the hearing.

Since it is my finding that the respondent has been properly served with notice of the hearing, I conducted the hearing in the respondent's absence.

All testimony was taken under affirmation.

Issue(s) to be Decided

The issues are whether or not to cancel or uphold a Notice to End Tenancy, whether or not the landlord is complying with the tenancy agreement, whether or not to allow the tenants to change the locks in the rental unit, and whether or not to order recovery of the filing fee.

Background and Evidence

The tenants testified that:

- They signed the tenancy agreement with the landlord on January 14, 2015 and paid a security deposit of \$150.00.

- This tenancy began on February 1, 2015 with each of the four tenants agreeing to pay \$75.00 per month under a single tenancy agreement for a total of \$300.00 per month.
- This is a fixed term tenancy agreement with an expiry date of September 1, 2016, with the option for the tenancy to continue on a month-to-month basis at the end of the fixed term.
- They paid their first month's rent totaling \$300.00 to the landlord in cash, however the landlord has refused to give them a rent receipt.
- In March 2015 the landlord accepted \$75.00 of the monthly rent from one of the tenants; however the landlord refused to accept any further rent and instead serve them with a Notice to End Tenancy for nonpayment of rent which stated that \$750.00 rent was outstanding from each of them.
- There was never any agreement that rent would be \$750.00 per month from each of them and as stated earlier the agreement was \$75.00 per month from each of them for a total of \$300.00.
- They have also had a problem with the landlord entering their rental unit without their permission, using her key. One of the times that the landlord entered, one of the tenants was home and came out of her bedroom to find the landlord in the rental unit.
- They are asking therefore that the Notice to End Tenancy be canceled, that the landlord be ordered to supply rent receipts, that the landlord comply with the tenancy agreement and accept the rent, and that they be allowed to change the locks to the rental unit to stop the landlord from entering.

Analysis

It is my finding that the applicants have shown that the rent for this rental unit is \$300.00 per month. The applicants have provided a tenancy agreement that was signed on January 14, 2015 by the tenants, and on January 21, 2015 by the landlord, and although it does not have any amount of rent listed on the agreement, the security deposit collected was \$150.00 and since security deposits are normally one half the rent, this supports the tenants testimony that the rent for this unit is \$300.00 per month.

Further, I find it highly unlikely that each of the tenants would have agreed to pay \$750.00 thereby bringing the total rent of the house to \$3000.00. I therefore will set aside the Notice to End Tenancy, because the landlord has obviously put an incorrect amount of \$750.00 each on that notice, and this tenancy will continue.

I also accept the tenant's testimony that the landlord is refusing to accept rent. The landlord cannot refuse to accept rent and then issue a Notice to End Tenancy for nonpayment of rent.

It is also my finding that the landlord has failed to comply with the Residential Tenancy Act by refusing to give the tenants receipts for the rent paid in cash. Section 26(2) of the Residential Tenancy Act states that if rent is paid in cash the landlord must issue a receipt.

I also find that the landlord has breached section 29 of the Residential Tenancy Act by entering the rental unit without the tenants permission, and without giving the required notice. Section 29 of the Residential Tenancy Act reads as follows:

- 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;
 - (c) the landlord provides housekeeping or related services under the terms of a written tenancy agreement and the entry is for that purpose and in accordance with those terms;
 - (d) the landlord has an order of the director authorizing the entry;
 - (e) the tenant has abandoned the rental unit;
 - (f) an emergency exists and the entry is necessary to protect life or property.
- (2) A landlord may inspect a rental unit monthly in accordance with subsection (1) (b).

I therefore allow the tenants request to change the locks on the rental property.

I also allow the tenants request for recovery of their filing fee.

Conclusion

The ten-day Notice to End Tenancy dated March 11, 2015 is hereby canceled and this tenancy continues as a fixed term tenancy with an expiry date of September 1, 2016.

I further Order that the tenants may change the locks on the rental property and do not have to give a copy of the key to the landlord until the tenancy ends.

I further Order that the landlord comply with the Residential Tenancy Act by accepting the monthly rent when offered by the tenants, and by issuing rent receipts when rent is paid in cash.

I also Order that the tenants may make a one-time deduction of \$50.00 from future rent payable to the landlord to cover the cost of the filing fee paid for today's hearing.

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: May 01, 2015

Residential Tenancy Branch

