



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding B.C. HOUSING
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC

Introduction

This teleconference hearing was scheduled in response to an application by the Tenant under the *Residential Tenancy Act* (the *Act*) for an Order for the Landlord to comply with the *Act*, Regulation or Tenancy Agreement.

An agent for the Landlord (the “Landlord”) was present for the teleconference hearing, as was the Tenant. Both parties were affirmed to be truthful in their testimony.

The Tenant confirmed that she provided the Notice of Dispute Resolution Proceeding documents to the Landlord and that she received copies of the Landlord’s evidence. The Landlord confirmed receipt of the Notice of Dispute Resolution Proceeding documents, as well as copies of the Tenant’s evidence.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issue to be Decided

Should an Order be issued for the Landlord to comply with the *Act*, Regulation or Tenancy Agreement?

Background and Evidence

The parties agreed that the Tenant has been residing in the current rental unit since 2007 and that monthly rent is \$361.00, including utilities.

The Tenant testified that she has been experiencing a loss of quiet enjoyment in her home based on the actions of one of the other residents in the rental building. The Tenant claimed that her neighbour is harassing and intimidating her by looking at her in a way that leads to her feeling threatened. She also stated that the neighbour has followed her out of the building on a few occasions and that she feels unsafe.

The Tenant testified that the other resident smokes on the balcony and in the common areas of the property. The Tenant finds the second-hand smoke very disturbing and stated that it contributes to health issues she has.

The Landlord testified that the building residents are allowed to smoke in their units, but not in the hallways, on the balconies or other common areas of the building. Tenants are also allowed to smoke outside if they are a certain distance from the building.

The Tenant submitted in evidence letters of complaint that she has written. This included a letter dated December 2, 2016 to an agent at BC Housing, a letter dated December 12, 2016 to another agent at BC Housing, a letter dated June 19, 2017 to the agent that was present at the hearing and a letter written to the Minister of Municipal Affairs and Housing and the BC Premier on March 15, 2018.

The Landlord testified that they did not receive one of the above letters due to the address being written incorrectly, but that they are aware of the other three. They testified that they do not find three letters over a two year period enough to establish a significant issue without further evidence of the concerns.

The Landlord submitted that they investigate any complaints about other tenants' actions and/or behaviour in the building and take steps to address the concerns if they are substantiated. The Landlord submitted in evidence a memo that was put up in the building reminding residents that smoking in the common areas of the building is prohibited. The memo submitted was dated 2016, but the Landlord testified that the building manager has changed the date and put up other notices since and that this was submitted as an example of what they use.

The Tenant testified that she would like to be moved to a different building within BC Housing. The other options she presented were to have the other resident moved to a different BC Housing building or to have him evicted.

The Landlord testified that another building was offered to the Tenant in April 2018, but the Tenant declined. The Tenant testified that she did not want to move to the building

offered to her due to concerns regarding bed bugs and smoking. The Landlord confirmed that the Tenant remains on a waiting list to move to a new building when a vacancy becomes available, but that they are unable to provide a timeline for this.

Analysis

While the Tenant testified as to the concerns she is having with another resident in the building where she resides, I find that there is insufficient evidence to establish that the Landlord is not in compliance with the *Act*, Regulation or Tenancy Agreement.

The Landlord suggested that the Tenant gather evidence on the smoking concerns of other residents and to report these concerns to them. They also suggested that the Tenant call the police with any concerns of harassment or intimidation.

The Landlord stated that they investigate all concerns or complaints and will take appropriate steps to address any concerns in accordance with the *Act*.

Section 62(3) of the *Act* allows an Order to be issued for a landlord or tenant to comply with the *Act*, Regulation or Tenancy Agreement. As I have determined that there was insufficient evidence to establish that the Landlord is not in compliance with the *Act*, Regulation or Tenancy Agreement, I find that there are no orders of compliance needed. Therefore, I dismiss the Tenant's claims without leave to reapply.

Conclusion

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: June 05, 2018

Residential Tenancy Branch