



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OLC, RP

Introduction

This hearing was convened in response to the Tenants' Application for Dispute Resolution, in which the Tenants applied for an Order requiring the Landlord to comply with the *Residential Tenancy Act (Act)* and for an Order requiring the Landlord to make repairs.

The Tenant stated that on September 13, 2019 the Dispute Resolution Package was personally served to the Landlord. The Landlord acknowledged receipt of these documents.

On November 08, 2019 the Landlord submitted evidence to the Residential Tenancy Branch. The Landlord stated that this evidence was not served to the Tenants. As the evidence was not served to the Tenants, it was not accepted as evidence for these proceedings. The Landlord was advised that he can discuss this documentary evidence during the hearing, but that I would not be viewing the evidence.

On November 13, 2019, November 14, 2019, and November 15, 2019 the Tenants submitted evidence to the Residential Tenancy Branch. The female Tenant stated that this evidence was not served in a timelier manner because part of the evidence was in her vehicle, which was stolen on October 30, 2019, and it took time to duplicate the evidence. She stated that this evidence was personally served to the Landlord approximately 08:30 a.m. on November 15, 2019.

The Witness for the Tenants stated that she was with the female Tenant when the Tenants' evidence was served to the Landlord on November 15, 2019.

The Landlord stated that he did not receive any evidence from the Tenants or the Witness for the Tenants.

Even if I accepted that the Tenants' evidence was served to the Landlord approximately one hour prior to the start of this hearing, I would not accept it as evidence. This evidence was not served in accordance with the timelines establish by the Residential Tenancy Branch Rules of Procedure and I find it would be entirely unfair to the Landlord to consider this evidence.

The female Tenant was advised that the hearing would proceed; that she could discuss any of her documentary evidence; and that she could request an adjournment, at the end of the hearing, if she believed it was necessary for me to physically view any of her documents. At the conclusion of the hearing the female Tenant informed me she did not wish to request an adjournment.

The parties were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. The Landlord and the Tenant each affirmed that they would speak the truth, the whole truth, and nothing but the truth during these proceedings.

Preliminary Matter

At the hearing the female Tenant stated that she paid a plumber to make repairs to the rental unit and that she wants authority to withhold rent in compensation for those costs.

The Tenant was advised that the Tenants did not apply to recover the costs of emergency repairs in the Application for Dispute Resolution and that I cannot, therefore, consider that matter at these proceedings.

The Tenants retain the right to file another Application for Dispute Resolution in which they seek compensation for emergency repairs.

Issue(s) to be Decided

Is there a need to issue an Order requiring the Landlord to make repairs?
Is there a need to Order the Landlord to comply with the Residential Tenancy Act (Act) whenever he wishes to enter the rental unit?

Background and Evidence

The Landlord and the Tenant agree that this tenancy began on September 01, 2015.

The asks that the Landlord be required to “obey the law in regards to entering the suite”, give at least 24hrs notice prior to entering and have a legitimate reason for doing so”.

In support of this request the Tenant stated that sometime in August of 2019 the Landlord knocked on her door and when she opened the door the Landlord pushed past her, entering the rental unit without her permission. The Landlord stated that he has never entered the rental unit without her permission.

The Landlord and the Tenant agree that there was a sewage backup in the rental unit in July of 2019. The Tenant stated that the Landlord did not assist with the repair/clean-up, so she cleaned the area and hired a plumber to repair the issue.

The Tenant stated that since that incident in July there has been a continual leak in the kitchen and the bathroom, which were both reported in July of 2019.

The Landlord stated that the Tenant reported the bathroom leak in July of 2019, however he believed that leak had been repaired by the plumber hired by the Tenant. He stated that he viewed the bathroom approximately one month ago and the area was dry. He stated that he was not aware of a leak in the kitchen.

The hearing was concluded once the Tenant advised she was not seeking further Orders.

Analysis

Regardless of whether the Landlord entered the rental unit without the Tenant's permission in August of 2019, I can see no reason why I would not grant the Tenant's application to Order the Landlord to strictly comply with section 29 of the *Act* whenever the Landlord wishes to enter the rental unit.

Section 29 of the *Act* is reprinted below, for the benefit of both parties.

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).

Section 32(1) of the Act requires landlords to provide and maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law, and, having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant. This section requires landlords to ensure plumbing fixtures are working properly.

I find it is likely that there is a leak in the bathroom and kitchen of the rental unit, as I can find no reason for the Tenant to report an issue that does not require repair. I therefore Order the Landlord to have the kitchen and bathroom inspected for leaks on, or before, November 30, 2019.

In the event leaks are detected in the rental unit, I Order the Landlord to have those leaks repaired by December 15, 2019. I further Order the Landlord to provide the Tenant with a receipt from the plumber that establishes the repairs have been completed.

In the event leaks are not detected in the rental unit, I Order the Landlord to provide the Tenant with a document from a plumber that establishes the plumbing is in a good state of repair.

In the event the aforementioned receipt or document from the plumber is not provided to the Tenant by December 30, 2019, I hereby authorize the Tenant to reduce her monthly rent by \$100.00, effective January 01, 2020, and continuing until such time as one of the two documents is provided to her,

Conclusion

The Landlord has been ordered to strictly comply with section 29 of the *Act* when he wishes to enter the rental unit.

The Landlord has been ordered to inspect the kitchen and bathroom for leaks and to repair any leaks that are found.

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 16, 2019

Residential Tenancy Branch