



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: MNDC, FF

Introduction

This hearing dealt with an application from the tenants for a monetary order for compensation for breach of the covenant of quiet enjoyment, and recovery of the filing fee for this application. Those participating in the hearing included the agent for the tenants, the landlord and the landlord's witness, and each gave affirmed testimony.

Issue to be Decided

- Whether the tenants are entitled to a monetary order under the *Act*

Background and Evidence

In place between the parties was an agreement setting out the particulars of a month-to-month tenancy which began in May 2004. The tenancy came to an end pursuant to the landlord's issuance of a 1 month notice to end tenancy for cause dated October 24, 2008. A copy of the notice was entered into evidence. The notice shows the date by which the tenants must vacate the unit as October 31, 2008. During the hearing the parties agreed that the tenants did not dispute the notice by applying for dispute resolution, and that they vacated the unit by the end of October 2008. The reason shown on the notice for its issuance is as follows:

Tenant has engaged in illegal activity that has, or is likely to:

- adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.

Subsequently, the tenants have applied for compensation totalling \$1,232.85. This amount is comprised of movers' services, fuel expenses for the truck, rent owed for new

premises, rent differential and utility hook up. Evidence submitted by the tenants included but was not limited to receipts for the above costs, various documentation in support of the experience of “a insecure feeling in our home,” letters from other residents who felt similarly uneasy as a result of possibly unauthorized entry into rental units by the landlord's caretaker, examples of allegedly rude conduct on the part of the landlord's caretaker, and letters speaking to the good character of the tenants.

The landlord and his witness addressed the exceptional entry into the tenants' unit and acknowledged that there was likely a misunderstanding related to an incident regarding the tenants' use of a barbeque. Further, they commented that if the tenants had any unresolved concerns about the landlord or his caretaker they did not take an opportunity to raise them directly with the landlord on those occasions but, rather, appear to have discussed them with other residents. The landlord's documentary evidence included signatures supporting the proposition that the landlord and his caretaker provide “good service.”

Analysis

Residential Tenancy Policy Guideline #6 addresses the Right to Quiet Enjoyment, in part, as follows:

The modern trend is towards relaxing the rigid limits of purely physical interference towards recognizing other acts of direct interference. Frequent and ongoing interference by the landlord, or, if preventable by the landlord and he stands idly by while others engage in such conduct, may form a basis for a claim of a breach of the covenant of quiet enjoyment. Such interference might include serious examples of:

- entering the rental premises frequently, or without notice or permission;
- unreasonable and ongoing noise;
- persecution and intimidation;

- refusing the tenant access to parts of the rental premises;
- preventing the tenant from having guests without cause;
- intentionally removing or restricting services, or failing to pay bills so that services are cut off;
- forcing or coercing the tenant to sign an agreement which reduces the tenant's rights; or,
- allowing the property to fall into disrepair so the tenant cannot safely continue to live there.

Temporary discomfort or inconvenience does not constitute a basis for a breach of the covenant of quiet enjoyment.

It appears that during their tenancy the tenants made friends with other residents in the complex and, clearly, receipt of the notice to end tenancy was upsetting for them. It also appears that they were not especially partial to the landlord's caretaker. However, after considering the documentary evidence and testimony of the parties, I am not persuaded that the tenants' evidence is comprised of "serious examples" of interference with their right to quiet enjoyment, or that incidents cited led to anything greater than temporary discomfort. In the result, I find there is insufficient evidence to support an entitlement to compensation due to loss of quiet enjoyment.

Conclusion

Pursuant to all of the above information I hereby dismiss the tenants' application.

DATE: February 4, 2009

Dispute Resolution Officer