

DECISION

Dispute Codes: MNDC

This hearing dealt with an application by the tenant for a monetary order for compensation for loss under the *Act* and the tenancy agreement.

The tenancy began on July 30, 2006 and ended on September 7, 2008. A monthly rent in the amount of \$375.00 was payable in advance on the first day of each month. On May 15, 2007, the current landlord bought the property and took over the management of the building.

Issue #1 – Reduction of Amenities

The tenant is seeking compensation for the restriction or termination of services and facilities for the period from May 15, 2007 to September 15, 2008. Specifically, he said the followings.

1. The price of the coin laundry was increased from 50 cents a load to \$1.00 a load.
2. Instead of providing free tea, coffee, cream and sugar, the management asked the tenants to donate returnable bottles as contribution towards the purchase of such refreshments.
3. Towels and shampoo were not replaced as they were used up or gone.
4. Internet service in the common area was discontinued.
5. Cleaning services and supplies were decreased.
6. The communal phone was moved to another location but still could be used by the tenants.

To support his claim, the tenant submitted several undated communiqués from the former landlord. One of such communiqués states the following, “Welcome

to the Rice Block. All tenants please take a moment to read through this letter. Each part of it contains information that you will need to know! We would like to welcome our new tenants, and let you know about the amenities offered, as well as our expectations as landlords.” The communiqué then goes on to describe the amenities offered to the tenants in the building. A newspaper article dated February 3, 2007 also confirms that the former landlord did offer to the tenants in the building those amenities that are the subject of this claim.

Section 27 of the *Residential Tenancy Act* states that a landlord may terminate or restrict a service or facility, other than one referred to in subsection (1), if the landlord (a) gives 30 days’ written notice, in the approved form, of the termination or restriction, and (b) reduces the rent in an amount that is equivalent to the reduction in the value of the tenancy agreement resulting from the termination or restriction of the service facility. Without finding whether such services or facilities are essential to the tenant’s use of the rental unit as living accommodation or whether the provision of such services or facilities is a material term of the tenancy agreement, I find that the tenancy ended on September 7, 2008 and therefore no rent reduction can be allowed. Accordingly, I dismiss the tenant’s application for a monetary order for compensation in this regard.

Issue #2 – Whether the tenant is entitled to a monetary order for compensation for the loss of quiet enjoyment of the rental unit?

The tenant is seeking compensation for the loss of quiet enjoyment of the rental unit. Specifically, he said that the landlord had harassed him about his son staying as a guest in the rental unit. The landlord said that the tenant had given a key to his son and that his son had lived in the rental unit for 3 to 4 months. The landlord submitted two letters dated December 14, 2007 and March 8, 2008 warning the tenant that he was in breach of the rules and regulations of the building by giving a key to his son and having him as a co-tenant in the rental

unit. The tenant did not dispute the landlord's assertions. Based on the above, I find that the tenant has not proven a loss of quiet enjoyment based on the landlord's request for his son to cease being an additional tenant in the rental unit.

The tenant also said that for a period during his tenancy, the building was undergoing extensive renovations and he was disturbed by the construction noises. The landlord said that he had offered to move the tenant to another unit located farther away from the construction. The tenant denied having received such an offer from the landlord. The landlord maintained that such an offer was made to the tenant and added that all of the tenants on the tenant's side of the building received similar offers of relocation. I find the landlord's explanation to be reasonable. At the same time, I find no evidence to indicate that the tenant had complained about the construction noises to the landlord during the tenancy. The Residential Tenancy Policy Guideline #6 states that in order to prove an action for a breach of the covenant of quiet enjoyment, the tenant must show that there had been a substantial interference with the ordinary and lawful enjoyment of the premises by the landlord's inaction which permits or allow physical interference by an outside or external force which is with the landlord's power to control. In this case, I find that the landlord has tried to mitigate the noise disturbances but the tenant chose not to accept the offer. Accordingly, I find that the tenant has not proven that there was a breach of the covenant of quiet enjoyment based on disturbances stemming from construction activities.

The tenant also said his right of quiet enjoyment of the rental unit was breached by a cleaning person / tenant who often yelled and made obnoxious and rude remarks to people in the building. The landlord gave the following explanation. The building has a policy whereas tenants who are marginally employed would be hired as staff of the building. In this case, the cleaning lady / tenant had some mental health issues and she was on a disability pension. Later, her conditions could no longer be medically controlled and she was moved to a more supportive

environment. The tenant did not dispute the landlord's explanation. Based on the above, I find that the landlord has tried to mitigate the noise disturbances caused by the cleaning person / tenant. Accordingly, I find that the tenant has not proven that there was a breach of the covenant of quiet enjoyment based on disturbances caused by the cleaning person / tenant.

Based on all of the above, I find that tenant is not entitled to a monetary order for compensation for the loss of quiet enjoyment of the rental unit.