



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNC, MNDC, OLC, FF

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution, seeking orders to cancel a Notice to End Tenancy issued for cause, for monetary orders under the Act, for an order for the Landlord to comply with the Act and to recover the filing fee for the Application.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

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.

At the outset of the hearing, the Tenant testified he had given his Notice to End Tenancy to the Landlord and was vacating the rental unit. Therefore, it was not necessary to deal with the Tenant's requests to cancel the Notice to End Tenancy or for an order compelling the Landlord to comply with the Act.

Issues(s) to be Decided

Is the Tenant entitled to monetary compensation from the Landlord?

Background and Evidence

The tenancy began on May 1, 2008, with the rent established as \$465.00 per month. At the outset of the tenancy the Landlord and Tenant were friends and no written tenancy agreement was created.

The parties have been to dispute resolution before. In an earlier hearing, the Landlord's Notice to End Tenancy issued to the Tenant was cancelled, as the Landlord had not written the Tenant a warning letter about the alleged breach, having too many occupants in the rental unit.

Following the first hearing, the Landlord had issued the Tenant a second Notice to End Tenancy for a different alleged breach of the tenancy agreement. The Landlord sent

the Tenant a warning letter and alleged it was a material term of the tenancy agreement that the Tenant could not park vehicles on the rental unit property. He gave the Tenant ten days to rectify the situation. The Landlord then issued a one month Notice to End Tenancy to the Tenant for breaching a material term and failing to rectify it.

In this present case, the Tenant is seeking monetary compensation from the Landlord for breach of his right to quiet enjoyment of the rental unit and for damages to the Tenant's personal property.

The Tenant alleges that the Notices to End Tenancy have been given in bad faith. He claims the Landlord wants him out of the rental unit for other reasons. The Tenant says from the outset of the tenancy he was allowed to park on the rental unit driveway, and the Landlord is trying to change the terms of the tenancy agreement.

The Tenant also alleges the Landlord has entered his rental unit several times, without right or authority to do so. The Tenant testified he had used small pieces of tape on his door while he was away and that these were disturbed when he returned home.

The Tenant further alleges that the Landlord has damaged his furniture, which had yogurt stains on it. He also claims for his TV, which had yogurt stains on it as well, and now does not reproduce colour accurately, alleging the Landlord damaged the TV.

The Landlord acknowledges that on one occasion he lost his temper and told the Tenant he wanted the tenancy to end and if the Tenant did not move he would throw the Tenant's property out.

The Tenant began moving some of his items out the rental unit and the Landlord then moved some of the remaining Tenant property into closets and piled it up in corners of the property. The Landlord claims he was moving the Tenant's property to get it out of his way. He says the yogurt stains could just have easily come from the Tenant's child. He says the TV was probably broken when the Tenant moved it.

A witness testified on behalf of the Tenant. She testified that the Tenant had been allowed to use the driveway since the beginning of the tenancy. She further testified that she had witnessed the Landlord acting aggressively towards the Tenant.

The Landlord denies entering the Tenant's rental unit.

Analysis

Based on the foregoing, the testimony and evidence, and on a balance of probabilities, I find that the Landlord has breached the Act by not providing the Tenant with quiet enjoyment of the rental unit. I find that the Landlord acted in a high-handed manner towards the Tenant and went on a campaign to evict the Tenant without sufficient cause or right to do so. Therefore, I find the Tenant has suffered a loss of quiet enjoyment

equivalent to two months of rent and is entitled to monetary compensation, as described below.

I find the Tenant has proven that the Landlord failed to clean the Tenant's couch and TV of yogurt stains and has suffered a loss. I accept the Tenant's evidence with regard to the cost of cleaning the items.

I find the Tenant had insufficient evidence to prove the Landlord damaged the TV and dismiss this claim.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find that the Tenant has established a total monetary claim of **\$1,280.00**, comprised of \$930.00 for the equivalent of two months of loss of quiet enjoyment of the rental unit, \$300.00 to clean the couch and \$50.00 for the filing fee for the claim.

The Tenant is granted a monetary order in these terms which must be served on the Landlord as soon as possible, and may be enforced in Provincial Court.

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: February 16, 2010.

Dispute Resolution Officer