



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### **Dispute Codes:**

CNR, MNDC, MNSD, OLC, FF

### **Introduction**

This hearing dealt with an Application for Dispute Resolution by the tenant seeking the following:

- An Order to Cancel a Ten-Day Notice to End Tenancy for Unpaid Rent.
- A Monetary Order for money owed or compensation for damage or loss under section 67 of the Act, Regulation or tenancy agreement;
- A Monetary Order for the return of the security deposit
- An Order compelling the Landlord comply with the Act;

Both parties attended and gave testimony in turn. At the outset of the hearing it was established that the tenant had vacated the unit and the forwarding address had not yet been provided to the landlord. Accordingly the only matter under dispute was the tenant's claim for compensation under section 67 of the Act for devalued tenancy.

### **Issue(s) to be Decided**

The issues to be determined, based on the testimony and the evidence, were:

- Whether or not the tenant has proven that the tenant suffered loss or damage due to landlord's failure to comply with the Act or tenancy agreement.
- Whether or not the tenancy was devalued due to interference with the tenant's peaceful enjoyment of the suite.

## **Background and Evidence**

The tenant testified that the tenancy began in October 2008 since which time the tenant was subjected to annoying conduct by another resident that interfered with the tenant's quiet enjoyment. According to the tenant, this occurred on a daily basis and consisted of intermittent verbal abuse heard through the wall, banging against the tenant's door and outside balcony railings, noise disturbances in the hallway, loud thumps that awakened the tenant early in the morning and racket that disrupted the tenant's sleep at night. The tenant testified that the problem was reported to the landlord repeatedly in 2008 and 2009 but the annoyances continued and the tenant was not certain what, if anything, had been done. The tenant did not submit evidence to confirm his communications with the landlord between October 2008 and January 2010. However, a letter from the landlord dated February 22, 2010 confirmed that the landlord had received recent complaints from the tenant and indicated that the landlord would take immediate action by issuing a written warning to the offending resident. The tenant testified that the purported warning from the landlord did not stop the neighbour's campaign of harassment and the tenant sent additional written and verbal complaints to the landlord after that. The tenant testified that, at one point he suggested installing a video camera to document the incidents, but this was not implemented. The tenant testified that, after 18 months of ongoing grief, he finally moved out in May 2010.

The landlord stated that no record was available from the previous landlord regarding complaints that were made prior to their involvement. According to the landlord, action had been taken on the tenant's complaints in February 2010. However the matter could not be immediately resolved. The landlord stated that the installation of security cameras was considered but as a major expenditure it would have to be planned for in the budget. The landlord testified that the tenant was also offered a different rental suite, but this offer was not accepted. The landlord testified that a warning was issued to the suspected resident, but he denied the conduct and the matter first had to be investigated and proven before a legal eviction could be pursued. The landlord stated

that the tenant had vacated without notice before the matter was resolved and left without paying the rent, without leaving a forwarding address and without properly cleaning the unit. The landlord testified that costs in the amount of \$1,000.00 were incurred and indicated that this claim may be pursued at a later date

### **Analysis**

In regards to the monetary claim for a rental abatement section 7 of the Act states that if a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for any damage or loss that results. Section 67 of the Act grants a Dispute Resolution Officer authority to determine the amount and order payment under the circumstances.

During the proceedings, a mediated discussion ensued and the parties mutually agreed to the following:

- The tenant is entitled to a lump-sum rent abatement from the landlord in the amount of \$1,000.00 as final settlement of all outstanding claims by the tenant.
- The landlord will retain the tenant's security deposit and agrees to forfeit its right to pursue further damages from the tenant for cleaning or repairs of the unit.

### **Conclusion**

Accordingly, I hereby issue a monetary order in favour of the tenant in the amount of \$1,000.00 to be paid by the landlord in full satisfaction of all claims relating to this tenancy. This order must be served on the landlord and can be enforced through Small Claims Court if necessary. The remainder of the application is dismissed without leave.

July 2010

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Date of Decision

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Dispute Resolution Officer