



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNDC, OLC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants for a Monetary Order for money owed or compensation for loss or damage under the *Residential Tenancy Act (Act)*, regulation or tenancy agreement and a Monetary Order to recover the filing fee. The tenants withdrew their application for an Order for the landlords to comply with the Act as they have since moved from the rental unit and any Order such as this would no longer apply.

The tenants served the landlords by registered mail on June 18, 2010 with a copy of the Application and Notice of Hearing. I find that the landlords were properly served pursuant to s. 89 of the *Act* with notice of this hearing.

Both tenants and the male landlord appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

Issues(s) to be Decided

- Are the tenants entitled to a Monetary Order for money owed or compensation for damage or loss?

Background and Evidence

Both Parties agree that this tenancy started on October 01, 2007 and ended on August 01, 2010. At the end of the tenancy rent for this unit had increased to \$1,238.40 per month. The tenants paid a security deposit of \$600.00 on October 01, 2007.

The tenants testify that the landlord entered the garage and moved some of their personal belongings by piling them by the garage door. The tenants agree that none of their belongings were missing or damaged by the landlord but state the landlord did not ask their permission to enter the garage or touch their belongings. The tenants state that the garage is a shared space with the other tenants.

The tenant's testify that the yards to the property are shared with the upstairs and downstairs tenants and their addendum to their lease states that the upstairs tenants and the downstairs tenants shall maintain front and rear yards in reasonable condition. Lawn and yard maintenance shall be mutually agreed upon by both tenants. The tenants claim they agreed with the previous tenants that they would have responsibility for the back yard and the upstairs tenant would have responsibility for the front yard. The tenants claim they always maintained the front yard and picked up their dogs feces on a regular basis.

The tenant's claim when the downstairs tenants moved out the landlord had entered into an agreement with the new tenants that moved in that the landlords would take over responsibility for the rear yard. However, the landlords also decided to cut the grass in the front yard and did not discuss this new arrangement with the tenants. The tenants found on two occasions that the landlord had placed dog feces on their front step and had left grass clippings on the pathways. The tenants claim the landlord had no right to cut the grass and should not have placed dog feces in front of their door. An argument

occurred between the male landlord and the male tenant and the tenants were then given a rent increase by the landlord which they claim was in retaliation.

The tenants seek compensation for a loss of quiet enjoyment to the equivalent of two months' rent before the increase to the sum of \$2,400.00.

The landlord disputes the tenant's claims. The landlord states that the yards and garage are common areas and therefore according to the guide book for landlords and tenants the landlord is entitled to enter common areas without written notice to the tenants. The landlord claims the tenants had used the garage for storage and before the new tenants moved in he attempted to remove some of his own construction materials from the garage to provide more space for the new tenants. The landlord states he entered the garage through the downstairs unit; however, he found the tenants' belongings were in the way so he moved them out of the way to get at his materials. The landlord agrees that he did not ask the tenants permission to do so as he did not want to disturb them.

The landlord claims he changed the addendum to the new tenant's tenancy agreement which states that the landlord will do the yard maintenance at the rear of the property. The landlord states he did not need to tell the upstairs tenants of his arrangement with the new tenants as they had separate tenancy agreements. The landlord states he and his wife noticed the front yard grass was getting high so they started to cut this lawn also when they came to maintain the back yard.

The landlord states that while cutting the grass at the front he found dog feces and on two occasions he did leave it at the front of the house for the tenants to deal with as they wanted the tenants to be responsible dog owners and clear up after their dog. The landlord states that on one occasion the new downstairs tenants told him they had also

placed dog feces near the front of the tenants entrance as they had found it in the back yard and they had a small child who played there.

Analysis

I have carefully considered all the evidence before me, including the affirmed evidence of both parties. With regard to the tenants dispute regarding the landlord accessing the garage without written notice to do so; I find the landlord did enter this area through the downstairs tenants rental unit to remove some of his belongings. The landlord does admit that he had to move the tenant's personal items to get at his belongings. While the landlord may not have acted prudently in moving the tenants personal items without their express permission I find by the tenants own admission that nothing was broken or missing. Consequently, it is my decision that the tenants have not suffered substantial interference due to the landlord's actions in entering this common area and therefore they have suffered no direct loss that would require compensation or a loss of quiet enjoyment of their rental unit.

With regard to the tenant's dispute concerning the landlords entering the property to cut grass as arranged with the new downstairs tenants, I find again that the landlord should have notified the upstairs tenants of this change of arrangement and discussed how it may have affected their reciprocal arrangement with the new tenants. However, it is my decision in this matter that the tenants have not suffered any substantial interference by the landlords when the landlords took it upon themselves to cut the tenants grass and there is no evidence that the tenants have suffered a loss of quiet enjoyment due to the landlords entering the property to cut the front grass.

With regard to the issues of depositing dog feces in front of the tenants entrance door I find although this was an unnecessary action to take by the landlords and acknowledge

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how unpleasant this was for the tenants; I find as this only happened on two occasions and was not an ongoing occurrence I do not find it falls under the realms of a loss of the tenants right to quiet enjoyment of their rental unit as determined by section 28 of the Act or #6 of the Residential Tenancy Policy Guidelines.

Conclusion

It is my decision that the tenant's application has no merit based on their application to recover the equivalent of two months' rent for a loss of quiet enjoyment of their rental unit and their application is therefore dismissed without leave to reapply.

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: August 12, 2010.

Dispute Resolution Officer