



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes: MNDC MNSD OLC

Introduction

This is the Tenant's application for a Monetary Order for compensation for damage or loss; for double the amount of the security deposit; and for an Order that the Landlord comply with the Residential Tenancy Act (the "Act"), regulation or tenancy agreement.

The Tenant testified that she served the Landlords with the Notice of Hearing documents, by handing the documents to the Landlords at their residential address on April 12, 2010. The Landlords provided a letter to the Residential Tenancy Branch appointing JL as their agent for the purposes of the Hearing.

I am satisfied that the Landlords were served with the Notice of Hearing documents and that they appointed JL to act as their agent for the purposes of the Hearing.

Both parties gave affirmed testimony at the Hearing.

Issue(s) to be Decided

Is the Tenant entitled to compensation for damage or loss, pursuant to the provisions of Section 67 of the Residential Tenancy Act (the "Act")?

Background and Evidence

The Tenant gave the following testimony and documentary evidence:

The Tenant testified that she paid a security deposit to the Landlords in the amount of

\$262.50 on January 30, 2009. The Tenant provided a copy of the receipt in evidence. Monthly rent was \$550.00.

The Tenant testified that she had to move out of the rental unit at the end of January, 2010, because the Landlords had been given an Order by the City to have her suite removed as an illegal dwelling unit. The Tenant testified that the Landlords provided her with a copy of the letter from the City on January 4, 2010, but that the letter was written on December 10, 2009. The Tenant testified that the Landlords did not provide her with any legal notice to end the tenancy (i.e. a One Month Notice to End Tenancy) and told her that they didn't want to ruin her Christmas, so they delayed informing her she would have to move.

The Tenant testified that there was no Condition Inspection Report done at the beginning or at the end of the tenancy and that she did not give the Landlords permission to retain any of her security deposit.

The Tenant testified that she provided the Landlords with written notification of her forwarding address in person on or about the end of February, 2010, and again by registered mail, on April 14, 2010. The Tenant provided copies of the registered mail receipts and tracking numbers in evidence along a copy of her notification of her forwarding address, dated February 20, 2010.

The Tenant testified that all throughout the period of the tenancy, the Landlord's agent, who was a tenant in another suite of the rental property, harassed her and her dogs. She stated that the Landlord's agent would bang garbage can lids together; bark like a dog; blow a high pitched whistle; taunt her dogs; spray water at them; throw rocks at them; and behave aggressively towards her. The Tenant testified that the Landlords' agent kicked one of her dogs and on one occasion entered her rental unit without her permission. The Tenant testified that when she told the Landlords about the Landlords' agent's actions, their response was that they didn't want trouble and if she didn't like it, she could move out. The Tenant provided a written statement in evidence, setting out

the dates these incidents occurred and the dates she complained to the Landlords. She provided these details during her testimony.

The Tenant testified that on May 16, 2009, the male Landlord entered her suite at 5:20 in the morning, drunk and looking for cigarettes and alcohol. The Tenant testified that she called the police, but was afraid to file an Application for Dispute Resolution before she found a new place to live for fear of retaliation. The Tenant testified that the Landlords withdrew her laundry privileges without compensating her on December 16, 2009. She told the Landlords that it would cost her \$80.00 per month to do her laundry elsewhere, so she would pay \$80.00 less in rent (\$470.00 per month).

On January 4, 2010, there was an altercation with the Landlords and the Tenant called an advocate, who remained on the line during the argument. The Tenant provided a copy of a letter from the advocate attesting that he heard a very angry man yelling at the Tenant, and the Tenant replying "what are you going to do hit me".

The Tenant testified that the roof leaked when it rained; the Landlords' dog would enter her suite and relieve itself on her rug; there were hidden cameras outside the rental property; the Landlords' agent had 8 ferrets and would leave their litter boxes in the hallway causing an awful smell; and that there was no functioning smoke alarm in her suite. The Tenant testified that she spoke to the Landlords a number of times about these issues, but nothing was done to correct them.

The Tenant testified that she was given a prescription for medication as a result of the stress caused by the Landlord and the Landlords' agent, and that she had to go to the hospital three times because of stress-related illnesses.

The Tenant seeks a monetary award, calculated as follows:

Double the security deposit	\$525.00
Damages and aggravated damages for loss of peaceful enjoyment	\$5,000.00

Return of last month's rent for improper notice to end tenancy	<u>\$470.00</u>
Total monetary award sought	\$5,995.00
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The Landlords' agent gave the following testimony:

The Landlords' agent stated he could not provide testimony with respect to the Tenant's claim that she provided the Landlords with written notification of her forwarding address or whether or not there was a move-in or move-out condition inspection report done. The Landlords' agent stated that there were smoke alarms hardwired into the rental property and that he believed the Tenant's smoke alarm was functioning. The Landlords' agent stated that the Tenant did not complain about his ferrets until the fall of 2009.

The Landlords' agent testified that the Tenant refused to take responsibility for her dogs' behavior and that he had been bitten by the dogs. He testified that the Tenant advised him that he had to remain still in their presence and that he refused to put himself in a submissive position because dogs are inferior to humans. The Landlords' agent testified that the Tenant's dogs were constantly barking and were not licensed or trained. He stated that one day he attempted to test the dogs' temperament. He placed a closed fist through a railing and the dogs bit him, drawing blood. The Landlords' agent testified that he did not tease or taunt the dogs.

The Landlords' agent testified that he lightly kicked one of the Tenant's dogs in the face with his bare foot. He stated that, as a result of this incident, the RCMP advised him not to have any communications with the Tenant and the SPCA gave him an order to use minimal force to protect himself.

The Landlords' agent testified that he and the Tenant had discussed ways to train the dogs not to bark, for example using an electrified collar, or spraying them with water. He stated they agreed to try using a super soaker when the dogs barked, which was often. He stated that it seemed to work, but that the Tenant became upset because the

dogs were soaking wet. The Landlords' agent stated that the Tenant's dogs were feral miniature poodles. The Landlords' agent testified that the RCMP spoke to him and he agreed to stop spraying them when they barked.

The Landlords' agent testified that the dogs were barking when he was on the phone one day, so he blew into a tube from a diving snorkel to try to get them to stop.

The Landlords' agent testified that the male Landlord was an alcoholic who occasionally would go on a drinking binge. He said that the male Landlord would enter his tenants' suites unannounced and look for cigarettes and alcohol, but the tenants were used to it and would just tell him to go away.

The Landlords' agent testified that the Landlords did not give the Tenant proper notice to end the tenancy because the situation had deteriorated so badly that they thought she would move out on her own. The Landlords' agent testified that he had a letter from the male Landlord attesting that he did not touch the Tenant on January 4, 2010.

Analysis

Based on the affirmed testimony and documentary evidence provided by the Tenant, and in the absence of any testimony or documentary evidence to the contrary by the Landlords or their agent, I am satisfied that the Tenant provided the Landlords with a security deposit in the amount of \$262.50 on January 30, 2009. I am also satisfied that the Tenant provided the Landlords with written notification of her forwarding address and that the Landlords have not returned any of her security deposit.

Further to the provisions of Section 38(6) of the Residential Tenancy Act (the "Act"), I award the Tenant double the amount of the security deposit. A copy of Section 38 of the Act accompanies this decision.

The Tenant did not provide evidence that she provided the Landlords with written notice of her concerns with respect to the smoke alarm or the leaking roof, or that she was

hospitalized as a result of the Landlords' and the Landlords' agent's actions. However, based on the testimony of both parties, I am satisfied that the male Landlord entered the Tenant's suite without notice or permission and that the Landlords' agent was taunting her dogs and unreasonably disturbing the Tenant. I find that the Landlords were aware of these incidents and did not do anything to provide the Tenant with peaceful enjoyment of her home. Instead, the Landlords suggested that she should move. On the balance of probabilities, I find that the Landlords and the Landlords' agent were attempting to get rid of the Tenant by removing her laundry privileges, taunting her dogs, entering her suite illegally, and bullying her. I allow the Tenant's application for loss of peaceful enjoyment in the amount of \$100.00 per month from the month of February, 2009 (when the Tenant's documentary evidence indicates the Landlords were informed of their agent's inappropriate actions towards the Tenant and her dogs) to and including January, 2010.

I find that the Landlords did not provide the Tenant with due notice to end the tenancy and the Tenant was forced to move out at the end of January, 2010. Therefore, I allow the Tenant's claim in the amount of \$470.00.

The Tenant has established a Monetary Order, calculated as follows:

Double the security deposit	\$525.00
Damages for loss of peaceful enjoyment	\$1,200.00
Return of last month's rent for improperly ending tenancy	<u>\$470.00</u>
TOTAL MONETARY ORDER	\$2,195.00
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Conclusion

I hereby grant the Tenant a Monetary Order in the amount of \$2,195.00 against the Landlords. This Order must be served on the Landlords and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an Order of that 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: August 23, 2010.

Dispute Resolution Officer