



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNDC, OLC

Introduction

This is the Tenant's application for a Monetary Order for compensation for damage or loss; and an Order that the Landlord comply with the Act and provide the Tenant with quiet enjoyment of the rental unit.

The parties gave affirmed testimony and the Hearing proceeded on its merits.

Preliminary Matters

At the outset of the Hearing, the Landlord testified that he had not received some of the Tenant's evidence within the allowed time frame. Evidence must be provided to the other party and to the branch within 5 clear business days of the Hearing date. The Tenant agreed that some of her evidence had been provided to the Landlord and to the Residential Tenancy Branch late. Therefore, I have considered only the documentary evidence that the Tenant served on the Landlord and the Residential Tenancy Branch within the time frame allowed. The Landlord's documentary evidence was provided to the Tenant and the Residential Tenancy Branch within the allotted time frame.

Issues to be Decided

- Is the Tenant entitled to a Monetary Order in compensation for loss of quiet enjoyment?

Background and Evidence

The Tenancy began on February 1, 2010. Monthly rent is \$800.00 per month, due the first day of each month. The Tenant was required to pay a security deposit in the amount of \$400.00 at the beginning of the tenancy. The rental unit is the basement suite of a house. The upstairs suite is occupied by another tenant of the Landlord's (the "other tenant"), who has four children, ranging in age from 7 to 13 years of age. The house was built in 1978. The Tenant and the other tenant share a laundry room, which is adjacent to the rental unit.

The Tenant gave the following testimony:

The Tenant testified that she and the Landlord signed a tenancy agreement but the Landlord didn't give her a copy.

She stated that she informed the Landlord on March 29, 2010 about problems she was having with the other tenant. She stated that the other tenant was using her parking space; doing laundry late at night; and that she and her children were making a lot of noise (for example slamming doors, yelling, stomping across their floors; and slamming the washer and dryer lids). She stated that she had approached the other tenant to try to resolve these issues, but the other tenant's reaction was to shrug it off. The Tenant testified that the Landlord arranged to meet with her and the other tenant in May, but that nothing was done to address the problem.

The Tenant testified that she came close to calling the police in April when the other tenant had house guests. She stated that she heard a child screaming and foul language coming from the other tenant's suite.

The Tenant testified that for a couple of weeks in July, there were repairs being made to the roof of the rental property. She stated that there was banging and sawing until after 9:00 or 10:00 at night.

The Tenant is seeking a monetary ward, as follows:

\$200.00 per month for eight months of loss of quiet enjoyment	\$1,600.00
Estimated cost of moving expenses	\$600.00
Emotional distress	<u>\$1,000.00</u>
TOTAL AMOUNT CLAIMED	\$3,200.00

The Landlord gave the following testimony:

The Landlord did not recall providing the Tenant with a copy of the tenancy agreement.

The Landlord testified that he attempted to facilitate an agreement between the Tenant and the other tenant with respect to the Tenant's concerns. He suggested some solutions with respect to use of the shared laundry facilities, including a suggestion that the tenants could agree to a schedule of when each tenant could use the laundry facilities. He stated that the other tenant had agreed not to do any laundry after 8:00 p.m. at night. He stated that the Tenant left the meeting before they could finish discussing the issues.

The Landlord testified that there was no designated parking in the tenancy agreement, but that he had told the Tenant she could park in a certain spot on the driveway.

The Landlord testified that he investigated the Tenant's complaints, but there was never any unusual noises coming from the other tenant's suite when he was present. He stated that he was doing renovations in the rental unit prior to the Tenant moving in and didn't notice any undue noise coming from the other tenant's suite.

The Landlord testified that he repaired the roof because it was leaking and that repairs did not continued past 7 or 8 o'clock at night.

Analysis

The Landlord provided documentary evidence indicating that the Tenant owed \$931.34 in unpaid rent. This is the Tenant's application and therefore this was not addressed in the Hearing.

The Residential Tenancy Act requires a landlord to provide a tenant with a copy of the tenancy agreement. I order the Landlord to provide the Tenant with a copy of the tenancy agreement.

Based on the testimony provided by both parties, I do not find that the Tenant has proven her claim for damages relating to loss of quiet enjoyment or emotional distress. The other tenant has 4 young children. It is unrealistic for the Tenant to expect absolute quiet under these circumstances, taking into consideration the number of children; their ages; and the age of the rental property. The Landlord attempted to address the Tenant's concerns with the other tenant. The Tenant agreed that, after the meeting, the other tenant did not do laundry after 8:00 p.m. at night. The Tenant left the meeting before it was over and thereby refused to participate in any more negotiations.

The Tenant's application for a monetary award for the estimated cost of moving expenses is dismissed.

The Tenant's application is therefore dismissed in its entirety.

Conclusion

The Tenant's application is dismissed.

The Landlord is ordered to provide the Tenant with a copy of the tenancy agreement forthwith.

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 27, 2010.

Dispute Resolution Officer