

DECISION

Dispute Codes: OLC and FF

Introduction

This application was brought by the tenant seeking an Order that the landlord comply with the legislation and or rental agreement, specifically the duty to act in the interest of the tenant's right to quiet enjoyment and intervene in harassment.

As a preliminary matter, the tenant had originally named the Chairman of the Board as the respondent in this action. With the consent of the parties, I have amended the application to name the housing society as respondent.

Issues to be Decided

This application requires a decision on whether the tenant's evidence would warrant an order for landlord compliance with the legislation and rental agreement.

Background and Evidence

This tenancy began on or about September 1, 2008. Rent is \$405 per month.

During the hearing, the tenant gave evidence that she has been subjected to harassment on four or five occasions in the form of unwelcomed touching, noise disturbance, physical gestures she interpreted as interference and the smell of marijuana.

In the first instance, the tenant states she had stopped attending religious services because the minister had touched her each time she attended. In another, she had spoken with the wife of another man now deceased, who had rubbed her back in the lobby during tea.

More recently she raised concern about another tenant who she felt stood uncomfortably close to her in the lobby and another who she believed had intentionally obstructed her progress in the hallway, breathed heavily and looked at her in a way that made her feel uncomfortable.

In an undated exchange of a note, the tenant complained to the tenant below her about the noise of his music and he replied with words that suggested he found her complaint unreasonable. A letter from another tenant dated October 13, 2009 complained of banging from the rental unit of the application tenant above him.

The tenant stated that matters have improved since she brought these issues to the attention of the management and made application.

The Tenant Liaison representative submitted a copy of a letter circulated to all tenants on June 11, 2010 seeking their cooperation in avoiding noise disturbance and reiterating the smoking policy and ban on marijuana if there is no medical prescription.

She also submitted a copy of a letter dated June 11, 2010 to the tenant alleged to have obstructed the hallway, etc. advising that his conduct had offended the applicant and sought his cooperation in being more sensitive to others to avoid further action.

On July 4, 2010, the chairman of the housing society wrote to all tenants announcing the appointment of a new manager and expanding on the tenant liaison representative's letter of June 11, 2010. While the tenant was disappointed that his letter had not specifically used the term harassment, I find that he very clearly and diplomatically articulated the standards of conduct expected by the society.

All three representatives of the landlord stated that they had not witnessed any incidents that might constitute sexual harassment as alleged by the tenant. However, they pledged to remain vigilant regarding the issue.

The tenant liaison representative gave assurance that if any conduct that constituted sexual harassment were to be proven, immediate action would be taken.

Analysis

Section 28 of the *Act* provides that all tenants have a right to quiet enjoyment including freedom from unreasonable disturbance and to the use of common areas free of significant disturbance.

Residential Tenancy Policy Guideline 6 further advises that:

“A landlord would not normally be held responsible for the actions of other tenants unless notified that a problem exists, although it may be sufficient to show proof that the landlord was aware of a problem and failed to take reasonable steps to correct it. A landlord would not be held responsible for interference by an outside agency that is beyond his or her control, except that a tenant might be entitled to treat a tenancy as ended where a landlord was aware of circumstances that would make the premises uninhabitable for that tenant and withheld that information in establishing the tenancy.”

In the present matter, I find that the landlords have acted in a patently reasonable manner in circulating two separate letters to all residents and privately communicating with the party alleged to have alarmed the applicant tenant. Therefore, I find that the landlords have exercised their duty under the legislation and rental agreement and I see no need to issue an order for landlord compliance.

I have considered the tenant's request to recover her filing fee from the landlord and the landlord's objection. As the landlords' initiative to address the issues in question predated the tenant's application, I find that she remains responsible for her filing fee.

Conclusion

The application is dismissed.

August 4, 2010