



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, FF
 MNDC, FF

Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent, to recover the filing fee for this proceeding and to keep the Tenant's security deposit in partial payment of those amounts. At the beginning of the hearing, the Landlord's agent withdrew her application for an Order of Possession. The Tenant applied for compensation for damage or loss under the Act or tenancy agreement and to recover the filing fee for this proceeding.

At the beginning of the hearing, the Landlord's agent claimed that she had been advised that the Tenant's application was scheduled for hearing on another date. The Landlord's agent said, however that she was prepared to deal with the Tenant's application on this date.

Issues(s) to be Decided

1. Are there rent arrears and if so, how much?
2. Is the Tenant entitled to compensation and if so, how much?
3. Is the Landlord entitled to keep the Tenant's security deposit?

Background and Evidence

This tenancy started on July 1, 2009 and ended on October 30, 2010 when the Tenant moved out. Rent is \$900.00 per month plus \$35.00 for parking due in advance on the first day of each month. The Tenant paid a security deposit of \$445.00 at the beginning of the tenancy. The Parties agree that the Tenant paid \$490.00 towards his rent for October 2010 and that \$445.00 remains unpaid.

The Tenant claimed \$445.00 (or ½ of a month's rent) as compensation for what he referred to as "harassment, lying and discrimination" by the Landlord's agents, the building manager and her spouse. In his oral evidence, the Tenant claimed that after his vehicle was vandalized in the underground parking area, the Landlord's agent and her spouse assured him that steps would be taken to secure the area. The Tenant said that the Landlord's agent gave a key to the parkade gate to a homeless person and allowed him to stay in a boiler room (or other room in the basement) so that he could act

as security. The Tenant argued that these measures were not only inadequate but made himself and other residents of the rental property feel unsafe having a non-resident be given free access to the building (and the ability to copy the key). The Landlord's agent admitted that this was the case but claimed that the person in question was trustworthy.

The Tenant also claimed that when he approached the Landlord's agent's spouse on September 23, 2010 to return a spare key, the agent's spouse asked him about a conversation the Tenant had tried to have with the owner of the property, then was sarcastic and condescending to the Tenant by claiming that the Tenant was harassing him. The following day, the Tenant said he was served with a One Month Notice to End Tenancy for Cause. The Landlord argued that the Tenant responded to her spouse's question by swearing and lunging aggressively at him. The Landlord's agent claimed that the Tenant had also written profanities on two of his rent cheques and on a note left under her door.

The Tenant relied on an unsigned letter dated September 23, 2010 from "the residents" of the rental property to the owner dated September 23, 2010. The letter refers to alleged concerns of the residents over such things as vandalism in the garage, a rotting barbeque enclosure on the roof, a number of unauthorized (and violent) occupants residing from time to time in the suite occupied by the Landlord's agent's daughter and so forth. The Tenant said the other residents who had drafted this letter did not want to identify themselves as they feared the Landlord's agent would retaliate and try to evict them. The Landlord's agent argued that the unsigned letter was unreliable and that the Tenant had not proven any of the allegations contained in it.

Analysis

Section 28 of the Act says that a Tenant is entitled to quiet enjoyment including but not limited to the right to the right to reasonable privacy, freedom from unreasonable disturbance, exclusive possession of the rental unit and use of common areas for reasonable and lawful purposes free from significant interference. The right to quiet enjoyment also includes the right to safety and security of one's person and belongings.

The Tenant argued that in trying to bring complaints about the Landlord's agents (such as their failure to take reasonable steps to secure the parkade and building) to the attention of the owner, his agents harassed him. I find that the letter dated September 23, 2010 from "the residents" of the rental property is of little assistance because there is no way to question the authors about the truth or falsity of the allegations contained in it and therefore I find it is unreliable and give it little weight. Furthermore, the Parties' evidence is contradictory as to whether the Landlord's agents harassed the Tenant or



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whether it was he who acted antagonistically toward them. In the absence of any corroborating evidence to resolve this contradiction, I find that there is insufficient evidence to conclude that the Tenant was harassed by the Landlord's agents.

The Tenant also argued that the Landlord's agents had not only failed to address security issues in the parkade but had compromised the security of the rest of the building by allowing a homeless person to stay in the garage to act as security. While this practice may seem unorthodox, the Tenant provided no evidence that this act of the Landlord's agents had compromised the security of the garage area or the rental property as a whole. Consequently, I find that there is insufficient evidence to support the Tenant's claim for compensation and it is dismissed without leave to reapply.

The Parties agree that the Tenant has not paid the balance of his rent and parking fee for October 2010 and as a result, I find that the Landlord is entitled to recover \$445.00. I also find that the Landlord is entitled to recover the \$50.00 filing fee for this proceeding from the Tenant. I Order the Landlord pursuant to s. 38(4) of the Act to keep the Tenant's security deposit in partial satisfaction of the monetary claim. The Landlord will receive a Monetary Order for the balance owing of \$50.00.

Conclusion

The Tenant's application is dismissed without leave to reapply. A Monetary Order in the amount of **\$50.00** has been issued to the Landlord and a copy of it must be served on the Tenant. If the amount is not paid by the Tenant, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: November 04, 2010.

Dispute Resolution Officer