

## **DECISION**

### **Dispute Codes:**

MNDC, OLC, LAT,

### **Introduction**

This hearing dealt with an Application for Dispute Resolution by the tenant seeking a Monetary Order for compensation for damage or loss under the Act, or tenancy agreement; an Order compelling the Landlord comply with the Act or agreement; and an order that the tenant be permitted to change the locks. Both parties attended and gave testimony in turn.

### **Issue(s) to be Decided**

At this hearing the issues to be determined, based on the testimony and the evidence, were:

- Whether or not the tenant has proven that the tenant suffered loss or damage due to landlord's failure to comply with the Act or tenancy agreement warranting the amount of compensation and rent abatement being claimed
- Whether or not the tenant has proven that the landlord is in breach of the Act and should be ordered to comply with the Act or agreement.
- Whether the tenant should be permitted to change the locks

### **Background and Evidence**

The tenancy began on November 1, 2010 with rent set at \$600.00 and a security deposit of \$300.00 was paid.

No evidence was submitted. However, the tenant testified that she was claiming a reduction in rent of \$200.00 per month for "violation of entry". The tenant testified that the landlord had entered the rental premises without proper notice.

In regard to the request to be permitted change the lock, the tenant stated that she had already changed the lock and now possessed the only key. The tenant also took issue with the fact that the landlord had changed the lock for the building's main entry for both

the front door and the back door, but only gave the tenant the new front door key. The tenant is requesting that she be given a key for the back door as well.

The landlord testified that the tenant had initially complained about someone coming into her suite without notifying her. The landlord stated that it was confirmed that the landlord had not entered this rental unit. However, the landlord did change the locks at the tenant's request because of the security concerns expressed by the tenant. The landlord stated that if the tenant has since chosen to change her own lock without giving the landlord a key, this was done without the landlord's knowledge or permission. However, the landlord would still be willing to accept this but cautioned the tenant that in the event that she accidentally locks herself out, the landlord would not be able to assist with entry. The landlord stated that, if the tenant was prepared to accept this fact, the landlord would not insist on being provided with second key as required by the Act.

In regard to the tenant's request for a back-door key to the building, the landlord stated that the same key used to open the front door also worked to open the back door.

### **Analysis**

In respect to the monetary claim for a rental abatement, I find that section 7 of the Act states that if a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying party must compensate the other for any damage or loss that results. Section 67 of the Act grants a Dispute Resolution Officer authority to determine the amount and order payment under the circumstances.

It is important to note that in a claim for damage or loss under the Act, the party claiming the damage or loss bears the burden of proof and the evidence furnished by the applicant must satisfy each component of the test below:

#### **Test For Damage and Loss Claims**

1. Proof that the damage or loss exists,
2. Proof that this damage or loss happened solely because of the actions or neglect of the Respondent *in violation of the Act, agreement or an order*
3. Verification of the amount to compensate for the loss or to rectify the damage.
4. Proof that the claimant took reasonable steps to minimize the loss or damage

In this instance, the burden of proof is on the tenant; to prove the existence of the damage/loss stemming directly from a contravention of the Act or agreement.

I find that the tenant did not sufficiently prove that any violation of the Act by the landlord had occurred and also failed to prove that she suffered a loss of value to the tenancy warranting a rent abatement. In any case, I find that the tenant's concerns have been

addressed by the landlord not disputing that the tenant's actions in changing her lock and keeping the only key, despite the fact that this is prohibited under the Act. That being said, I find that the tenant has accepted and assumed responsibility for any problems or consequences that may arise in relation to the landlord not being given a key to her rental unit.

### **Conclusion**

Based on the above, I find that the tenant's application must be dismissed and I do so 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: December 2010.

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Dispute Resolution Officer