



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes: MNDC, OLC, RPP, LRE, LAT, FF

Introduction

This is the Tenant's application for an Order that the Landlords comply with the Act, regulation or tenancy agreement; compensation for damage or loss under the Act, regulation or tenancy agreement; an Order that the Landlords return the Tenant's personal property; an Order authorizing the Tenant to change the locks on the rental unit; an Order suspending or setting conditions on the Landlord's right to enter the rental unit; and to recover the cost of the filing fee from the Landlords.

The Tenant gave affirmed testimony at the Hearing.

The Tenant testified that he personally served the Landlords with the Notice of Hearing Documents and copies of his evidence at the rental property on January 14, 2011.

I accept the Tenant's affirmed testimony that the Landlords were served in accordance with the provisions of Section 89 of the Act. In spite of being served with the documents, the Landlords did not sign into the teleconference and the Hearing proceeded in their absence.

Issue(s) to be Decided

- (1) Is the Tenant entitled to Orders sought in his application?
- (2) Is the Tenant entitled to compensation for damage or loss?

Background and Evidence

The Tenant gave the following testimony:

The rental unit is the main floor of a house. The Landlords live in the upper part of the house.

At around Christmas time last year, the Tenant's ex-girlfriend told Police that the Tenant was holding some of her belongings at the rental unit. The Police and the Tenant's ex-girlfriend went to the rental property. When they discovered the Tenant was not home, the Police asked the Landlords to let the Tenant's girlfriend into the Tenant's home. The Tenant did not give the Landlords permission to enter his suite, or to allow anyone to enter his suite. The Police did not have a search warrant. The Tenant has filed a complaint with the Police, and provided a copy of the complaint form in evidence.

The Tenant's ex-girlfriend was never a tenant, and did not live with the Tenant. She never paid any rent to the Landlord. Before they broke up, she was an occasional visitor only. The Landlords were aware that the Tenant and his ex-girlfriend had broken up. After they broke up, the Tenant expressly told the Landlords that she was not welcome at the rental unit and was not allowed access to his home.

Contrary to what the Tenant's ex-girlfriend told the Police, she did not have any possessions at the rental unit. The Tenant's ex-girlfriend took some of the Tenant's possessions, including prescription medications; jewellery; bedding; clothing; CD's and \$500.00 cash that the Tenant was keeping for payment of rent. The Tenant provided a list of his possessions along with their value. The Tenant seeks a monetary order in the amount of \$2,000.00, which is what he estimates the value of his taken possessions to be.

The Tenant testified that the Landlords have entered the rental unit in the past without his permission.

A few days ago, the Landlords served the Tenant with a Two Month Notice to End Tenancy for Landlord's Use of Property.

Analysis

The Tenant seeks an Order that the Landlords return the Tenant's personal possessions, but the Tenant did not provide evidence that the Landlords have any of the Tenant's personal possessions. Therefore, this portion of the Tenant's application is dismissed.

The Tenant did not provide sufficient evidence of the worth of the items that the Tenant's girlfriend took (i.e. statement from pharmacy with respect to the value of the prescription medication or copy of withdrawal slip or bank statement for the \$500.00 cash). However, I accept the Tenant's testimony that he did not give the Landlords permission to give the Tenant's ex-girlfriend access to the rental unit. Based on the undisputed evidence of the Tenant, I find that the Tenant's ex-girlfriend was not a tenant and that the Police did not provide the Landlords with a Warrant. Therefore the Landlord had no right to provide the Tenant's ex-girlfriend with access to the Tenant's home. I find that the Tenant is entitled to compensation from the Landlord for loss of peaceful enjoyment of the rental unit, and award the Tenant the amount of \$500.00 for this breach of a material term of the tenancy agreement.

I dismiss the Tenant's applications for an Orders suspending or restricting the Landlord's access to the rental unit and authorizing the Tenant to change the locks to the rental unit. There is insufficient evidence to support this portion of his application. The Landlords are ordered to comply with the provisions of Section 29 of the Act when wanting to access their right to enter the rental unit. Section 29 of the Act states:

Landlord's right to enter rental unit restricted

- 29** (1) A landlord must not enter a rental unit that is subject to a tenancy agreement for any purpose unless one of the following applies:

- (a) the tenant gives permission at the time of the entry or not more than 30 days before the entry;
- (b) at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes the following information:
 - (i) the purpose for entering, which must be reasonable;
 - (ii) the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees;
- (c) the landlord provides housekeeping or related services under the terms of a written tenancy agreement and the entry is for that purpose and in accordance with those terms;
- (d) the landlord has an order of the director authorizing the entry;
- (e) the tenant has abandoned the rental unit;
- (f) an emergency exists and the entry is necessary to protect life or property.

(2) A landlord may inspect a rental unit monthly in accordance with subsection (1) (b).

The Tenant has been partially successful in his application and is entitled to recover the cost of the \$50.00 filing fee from the Landlords.

Pursuant to the provisions of Section 72(2)(a) of the Act, the Tenant may deduct his monetary award of \$550.00 from future rent due to the Landlords.

Conclusion

The Tenant is awarded \$500.00 for loss of peaceful enjoyment of the rental unit and \$50.00 in recovery of the cost of the filing fee. Pursuant to the provisions of Section 72(2)(a) of the Act, the Tenant may deduct the amount of \$550.00 from future rent due to the Landlords.

The Landlords are ordered to comply with Section 29 of the Act with respect to the Landlords' right of access to the rental unit.

The remainder of the Tenant's application is dismissed.

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: January 28, 2011.
