



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNDC, OLC, FF

Introduction

The applicants, who are both former tenants of the rental property applied for monetary orders and orders that the landlord comply with the *Residential Tenancy Act*, Regulation and tenancy Agreement. The tenants made separate applications, but their claims were heard at the same time. The hearing was held at the Residential Tenancy Office in Burnaby on January 7, 2011.

Issue(s) to be Decided

Is the tenant K.K. entitled to a monetary order for compensation and if so in what amount?

Is the tenant V.R. entitled to a monetary order for compensation and if so in what amount?

The tenants requested an order that the landlord comply with the Act, Regulation or tenancy agreement. Because the tenancies have ended, I decline to consider this aspect of their claims.

Background and Evidence

The claim by V.R.

The tenant V.R. claimed payment of the sum of \$500.00. She claimed that the landlord's building manager has significantly interfered with her and with other tenants, specifically with the applicant, K.K. V.R. claimed that the building manager, L.B. has been disrespectful, has threatened her and her cats and has harassed her and damaged her plants. She claimed \$500.00, said to be for pain and suffering.

V.R. Described L.B. the resident manager as a bully. Her principal complaint was that L. B. forced her to get rid of plants and destroyed some of the plants on her balcony patio area. The tenant claimed that when she complained to the owner about his manager's conduct, the manager became even more difficult to deal with.

The tenant testified that she used to put up decorations at Christmas and Halloween. She complained that the manager has a need to control everything that happens in the building and stopped her from decorating; according to the tenant the manager said that some of her Halloween decorations were "too scary".

The tenant said that the landlord told her that she was free to have whatever plants she wanted outside her apartment. The tenant put netting over her balcony and she allowed different plants and vines to grow on the netting. The tenant's clematis grew up to the second floor apartment above her apartment. The tenant complained that L.B. had the clematis cut down and made her take down the netting. The tenant had some pots and soil stored under her balcony. She complained that the manager moved them into her garden area. The tenant complained that other plants, including some juniper trees, a hydrangea and some kiwi plants were butchered by the manager. The tenant testified that there are other occupants of the apartment building who are upset and who have been bullied by L.B. but they are all afraid to complain for fear of being evicted and losing their apartments and the below market rent that they pay.

The tenant testified that L.B. warned her to stay away from the tenant K.K, saying that she is evil and a bad influence on her. V.R. moved out of the rental unit at the end of October. She testified that L.B. discouraged a prospective landlord from renting to her.

The claim by K.K.

The tenancy of the applicant K.K. Began in August, 2007 and ended October 31, 2010. The tenant has requested a monetary order in the amount of \$6,000.00. She said in her application that the landlord and his manager have significantly interfered with her and another tenant and jeopardised her safety and lawful rights. She claimed that the building manager engaged in: "swearing, yelling, mocking, disrespect, constant threats, lying to other tenants & landlord & police – won't follow police orders." She claimed

damage to her plants and to herself. She claimed compensation of \$1,800.00 for damage to her plants and some \$4,000.00 for injury to herself.

The tenant testified that L.B. the resident manager of the rental property has been abusive towards her and has harassed her throughout the tenancy. According to the tenant this harassment has taken different forms. The tenant testified that L.B. occupied the apartment directly above the tenant's rental unit. She testified that L.B. has made extraordinary noise that was in part deliberate and intended to annoy the tenant and to cause her to move out of the rental unit. She said that L.B. has allowed her grandchildren to stay in her apartment and to engage in activities such as tap dancing on the dining room floor or jumping off the bed to the floor causing pieces from the tenant's ceiling to crumble onto her desk. The tenant complained that L.B. operated the television in her bedroom at extremely high volume late at night. The tenant claimed that L.B. deliberately made noise so as to annoy her. This included stomping across the floors of her apartment and repeatedly slamming her patio door.

The tenant testified that L.B. deliberately poured buckets or jugs of water from her balcony onto the tenant's balcony and onto the tenant's plants. The tenant said that L.B. did this deliberately and maliciously to kill the tenant's plants. The tenant said that L.B. would wait until the tenant had watered the plants on her balcony before coming out onto her balcony and dumping several gallons of water onto the tenant's plants causing them to drown or die from mould or fungus infestations. The tenant said that L.B. deliberately killed more than \$200.00 worth of plants on her balcony. She said that she attempted to erect umbrellas to protect her plants, but L.B. would come onto her balcony and taunt her by calling down to her "Don't you know water is good for your plants?"

The tenant accused L.B. of other malicious conduct; she said that L.B. would keep her kitchen sink full of dirty water and then wait until she heard the tenant running water in her sink before releasing the dirty water so that it would flow back into the tenant's sink. The tenant said that L.B. deliberately poured a jug of water onto the tenant's cat from her balcony. The tenant testified that she seriously injured her toe when she jumped up after hearing her cat yelp.

The tenant complained that L.B. contacted the tenant's sister and said inappropriate and untrue things in an effort to have the tenant's sister persuade the tenant to move out of the rental property.

The tenant described L.B. as a kind of Jekyll and Hyde personality; capable of being very nice and then becoming evil and malicious. She said in her written submission that L.B. is: "a scary narcissistic person who has 2 sides to her and you never know which one she is today. She acts the same as a bipolar person and she is scary to be around.

The tenant provided additional documents, statements from several individuals for whom she performs financial work and a voluminous collection of photographs showing the apartment building, her balconies and the plants thereon as well as pictures of the patio and surroundings of the apartment occupied by the tenant V.R. The pictures included photos that the tenant said showed that L.B. poured excessive water onto the tenant balcony and plants.

The landlord's response

The resident manager, L.B. and the owner, J.W. testified at the hearing. The essence of the manager's evidence is that it is not she who is harassing the tenant, but rather the tenant, K.K. who has been harassing her. According to the landlord relations with K.K. were amicable until the manager evicted a tenant who was a friend of the tenant, K.K; afterwards K.K. commenced a vendetta against her and has actively sought to have her removed as manager. The manager denied each of the tenant's allegations and specifically denied that she has made noise, watered plants or engaged in any other behaviour intended to harass the tenant. With respect to V.R. she testified that the netting and plants obscuring the tenant's balcony was a violation of the fire codes and the landlord had no option but to require Ms. V.R. to remove the plants and netting covering her balcony. L.B. recounted instances when she said she has been threatened and intimidated by the tenant, K.K. She provided witness statements from several other tenants attesting to L.B.'s capable management of the rental property. Several tenants' provided witness statements concerning inappropriate behaviour by K.K. directed at L.B. and of hostile behaviour by K.K. directed at other tenants.

Analysis and conclusion

I am able to say, based on the evidence presented that, there is a deep seated personality conflict between the tenant K.K. and the building manager, L.B.. I am not able to find on a balance of probabilities that L.B. has harassed K.K. or V.R. There is evidence from L.B. that is buttressed by statements from other tenants that K.K. has been hostile and abusive towards L.B. I did not find the tenant's evidence to be convincing that L.B. acted deliberately to make noise, to empty her sink at inconvenient times, or that she deliberately acted to pour water on her plants in order to destroy them. I accept and prefer Ms. L.B.'s evidence on these points.

It follows that I find the tenants have failed to prove, on a balance of probabilities that they have been harassed, have been significantly interfered with, had their safety and lawful rights jeopardized by the landlord or his manager to a degree that would warrant an award of compensation for actual damages suffered or as claimed by V.R. for pain and suffering. The tenants' claims in each application for dispute resolution are dismissed without leave to reapply.

Dated: February 11, 2011.
