



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNR, MNDC, OLC, ERP, RP, PSF, LRE, LAT, RR, O

Introduction

This matter dealt with an application by the Tenant for compensation for emergency repairs, damage or loss under the Act, regulation or tenancy agreement, for the Landlord to comply with the Act, to make emergency repairs, to make repairs to the unit, provide services required by law, suspend or set conditions on the Landlord's right to enter the rental unit, authorize the tenant to change the locks, allow the tenant to reduce the rent for repairs services and facilities agreed upon but not provided and other considerations.

The Tenant said she served the Landlord with the Application and Notice of Hearing (the "hearing package") by registered mail on March 4, 2011. The Landlord said he received the hearing package by registered mail from the Tenant. Based on the evidence of the Tenant and the Landlord, I find that the Landlord was served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

It was noted during the conference call that a previous Dispute Resolution Hearing was held on January 11, 2011 and a Decision dated January 12, 2011 was issued to the parties dealing with the emergency repairs, other repairs, making emergency repairs and other repairs, having the Landlord comply with the Act, setting conditions of the landlord's right of entry into the rental unit providing services that were agreed upon, rent reduction, authorizing the Tenant to change the locks and other considerations. Both the Tenant and the Landlord said they had that decision and it was still in full effect. The Tenant said she included these same claims in this application as she was told to do so by an officer of the Residential Tenancy Branch. The Tenant continued to say there was no change to these items. The Landlord said although he did not agree with the previous decision he did not dispute the Decision date January 12, 2011.

Giving that there is no change to the items ruled on in the January 12, 2011 Decision, I find, that decision stands as it is and the Decision is in full effect. Therefore the Tenant's claim to be considered in this application is her claim for damage or loss of \$10,000.00 for loss of privacy and harassment by the Landlord.

Issues(s) to be Decided

1. Is the Tenant entitled to compensation and if so how much?

Background and Evidence

This tenancy started in July 1, 2010 as a month to month tenancy. Rent is \$1,350.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$675.00 on July 1, 2010.

With respect to the Tenant's claim for loss or damage in the amount of \$10,000.00 the Tenant said the Landlord has harassed her since the beginning of the tenancy. She said the Landlord and his friends looked through her personal belongings in either August or September of 2010. The Landlord has not given her proper notice when he or his agents come to her rental unit and they enter without her permission. The Tenant continued to say the Landlord has made remarks to her like "you sound like a little girl" and the Landlord looks at her in a way that the Tenant said is sexual harassment. In addition the Tenant said the Landlord has harassed her by telephone. She said the Landlord phoned her 10 times on January 28, 2011 to collect the rent and the Landlord also said that he did not have the Decision date January 12, 2011. The Tenant said it is very difficult for her and her family to live under these conditions and she believes the Landlord has harassed her and he is not complying with the Decision of January 12, 2011 as he has not repaired any of the things he was ordered to do.

The Landlord's agent said the Landlord has not harassed the Tenant and he categorically denies looking through the Tenant's person belongings. The Landlord's agent continued to say there was no monthly agreement for bi-monthly payment of rent, but the Landlord has taken bi monthly payments in order to get the rent paid. In addition the Landlord said the Tenant may not have been honest with him at the start of the tenancy because she did not tell him that she had pets. The Landlord said the Tenant has pets in the rental unit. The Landlords' agent said that the Landlord has not sexually harassed the Tenant. This is a very serious charge and that this is the wrong venue to resolve that claim, which the Landlord says is untrue.

The Landlord's agent continued to say that the Landlord English is poor and sometimes he is blunt with his words, but he said he has not harassed the Tenant at any time. The Landlord's agent also said that the Tenant is correct that the Landlord has not given the Tenant proper notice when he or his agents require entry to the rental unit. The Landlord agent continued to say the Tenant has denied access to the Landlord's agent to the rental unit when they came to make repairs to the unit and as a result the repairs have not been done.

The Tenant said she has not spent any money to make repairs as she cannot afford to and it is the Landlord's responsibility to make the repairs.

Analysis

As the previous Decision dated January 12, 2011 dealt with all the issues except the damage or loss claim for \$10,000.00 in this application, I find the Decision date January 12, 2011 stands in full force and effect. I find as well these issues do not require a further decision at this hearing therefore; the issues dealt with in the Decision of January 12, 2011 are dismissed from this application without leave to reapply.

In making a claim for aggravated damages the Claimant must first prove the damage or loss exists. The Claimant must also prove the damage or loss happened solely because of the actions or neglect of the respondent in violation of the Act, the regulations or the tenancy agreement and Claimant must prove that they took steps to mitigate or minimize the loss or damage.

The burden of establishing is the responsibility of the applicant. In a situation where there is no written evidence provided or corroborating evidence from witnesses or other sources to substantiate the claim the burden of proving a claim relies on the testimony. When it is just the Applicants word against the Respondents word then the burden of proof is not met and the claim does not have grounds to be established.

The Tenant has provided testimony that the Landlord entered her unit without proper notice and she said this was harassment or invasion of privacy. The Landlord's agent said the Landlord agreed that he did enter the unit without proper notice. I find for the Tenant with regard to her claim that the Landlord has entered the unit without giving the Tenant proper notice to enter the rental unit. The Landlord was ordered to give the Tenant proper notice when he sought entry to the rental unit in the Decision dated January 12, 2011 and the Landlord has not complied with that order therefore; I find for the Tenant and award the Tenant \$1,000.00.

With regard to the Tenant claim of sexual harassment and other harassment for the balance or the monetary claim. The Tenant has given testimony but she has not



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provided corroborating evidence or other prove that the harassment happened and that she experienced a financial loss or damages solely because of the Landlord's actions. As well the Tenant did not say how she tried to mitigate or minimize any loss or damage that she may have suffered. As a result the Tenant has not met the burden of proof because it is just the applicant's word against the respondent's word. I find the Tenant has not established grounds for her claim of harassment and I dismiss her harassment claim and the balance of her monetary claim.

Conclusion

I find partially for the Tenant and I award the Tenant \$1,000.00. I hereby authorize and order the Tenant to withhold \$1,000.00 from future rent payments or apply the award of \$1,000.00 to any unpaid rent the Tenant has with the Landlord as at March 16, 2011.

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*.

Dispute Resolution Officer