



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This conference call hearing was convened in response to the tenant's application for a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement.

The tenant participated in the hearing and provided affirmed testimony. He testified that he served the Notice of a Dispute Resolution Hearing to the landlord by serving the documents in person to the resident manager. The tenant stated that he subsequently received a call from the landlord; the tenant said that the landlord was angry about the notice and that the tenant was wasting his time. The landlord did not participate and the hearing proceeded in the landlord's absence.

Issue(s) to be Decided

Is the tenant entitled to a Monetary Order, and if so for what amount?

Background and Evidence

The rental unit consists of an apartment in a multi-unit complex. The tenant testified that the month to month tenancy started in 2001 and pays rent through Social Services of \$425.00 per month.

The tenant stated that his suite flooded in July 2010 and that water leaked in the suite below. He stated that the occupant has since harassed him with threats to have him evicted, called him names, made false accusations, and that this type of harassment occurs on a daily basis. The tenant said that he notified the landlord in October 2010, and that the landlord directed him to provide a written account of the incidents for sufficient proof. The tenant said that he provided that report the same month, and that the landlord requested two more letters in order to take legal action against the offending tenant. The tenant said that he did not provide these letters to the landlord. He said that he is not so much concerned about monetary compensation for the loss of quiet enjoyment; he said that he has no other place to stay and wants the landlord to take action.

Analysis

I accept the tenant's undisputed testimony that he served the landlord with the Notice of Dispute Resolution in a proper manner pursuant to section 89 of the *Residential Tenancy Act*. I find that the landlord knew, or ought to have had knowledge of the date scheduled for this hearing.

Section 28 of the *Residential Tenancy Act* provides in part that a tenant is entitled to quiet enjoyment including, but not limited to; reasonable privacy and freedom from unreasonable disturbance.

The tenant bears the burden of proving that the landlord failed to respond in a reasonable fashion and with reasonable speed when he was apprised of the tenant's complaints. I accept that the landlord has been made aware of the problem with the tenant's neighbour in October 2010; however the tenant did not follow through with the landlord's request for written documentation to support the grounds to end the tenancy with the offending tenant. The tenant provided no documentary evidence with this hearing, but I accept his oral testimony that the landlord is aware of the tenant's complaint, although I cannot determine whether the landlord has neglected to deal with

the problem in a timely fashion. Therefore I find insufficient evidence to grant the tenant monetary compensation for loss of quiet enjoyment.

Notwithstanding, every tenant in a rental unit owes a statutory obligation towards other's right to quiet enjoyment. The landlord is put on notice that he has a duty of care and a right to enforce a tenancy pursuant to the Act. Repeated breaches by an offending tenant do not prevent this tenant from filing applications for dispute resolution in the future, and the quantum of the evidence at that time may generate a different outcome if the landlord fails to deal with the problem.

Conclusion

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: October 19, 2011.

Residential Tenancy Branch