



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC

Introduction

This matter dealt with an application by the tenant to obtain an Order for the landlord to comply with the *Residential Tenancy Act (Act)*, regulations or tenancy agreement.

Service of the hearing documents was done in accordance with section 89 of the *Act*, and was hand delivered to the landlord on September 09, 2011.

Both parties appeared, gave sworn testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly sworn evidence presented at the hearing I have determined:

Issue(s) to be Decided

Is the tenant entitled to an Order for the landlord to comply with the Act?

Background and Evidence

Both parties agree this month to month tenancy started on November 06, 2006. Rent for this unit is \$600.00 per month which is due on the 1st of each month.

The tenant testifies he was put into a psychiatric ward against his will at the beginning of August, 2011. He states he spent a month in this care. He states the landlord came to visit

him and the tenant states he asked him if any mail had come for him as he was expecting some packages. The tenant states the landlord told him no mail had arrived.

The tenant states he investigated this and found his mail was delivered and signed for with a name that the landlord poses as. The tenant states he has filed a complaint with Canada Post and the Police and they are investigating his claims. At the hearing the tenant gave two case file numbers for this investigation; one given to him when he first filed his complaint and one when Canada Post told him it was fraudulent activity. The tenant also provides a police file number.

The tenant testifies he came out of hospital on a two hour pass and went back to his unit where he encountered the landlord who started to scream at him because of some bricks lying in the front boulevard. The tenant states he had to ask the police to escort him back to his home because of the landlords actions towards him. The tenant states when he opened his door he found water running into his unit and he had to rescue his belongings.

The tenant states he has had to call the police to escort him home on three occasions when he was on short passes from the hospital. He states each time he has come home the landlord has acted angrily towards him and has launched a vicious campaign against him.

The tenant testifies the landlord has thrown his garbage off his balcony into the yard which is a common area. The tenant states the landlord has also served him with a One Month Notice to End Tenancy effective on October 31, 2011 with nine reasons ticked off. He states he did not apply to dispute this notice as he had decided to move out on that date. The tenant requests an Order for the landlord to comply with the *Act* and stop this vicious treatment towards him.

The landlord states that he does not care to respond to the tenants' claims. He states that the tenant has also harassed him, threatened him and has not paid his rent. He states the tenant has accused the landlord of stealing his mail and has threatened to hack into the landlords' computer. The landlord testifies that the tenant has left a note in his mailbox saying the landlord would go to jail and he also posted notes on the landlords' window

saying he is a liar and thief. The landlord testifies he has not launched a campaign against the tenant but it is the tenant who has tried to provoke him. He states he has no idea what happened to his mail and has not received a visit from either the Police or the Canada Post investigators.

Analysis

There is obviously a high degree of animosity evident between the parties and with this in mind I have carefully considered all the evidence before me, including the sworn testimony of both parties.

The tenant has claimed the landlord has failed to respect his peace and quiet enjoyment of his unit by launching a vicious campaign against him. The landlord argues that the tenant has also harassed him and called him a thief and a liar. The tenant seeks an Order for the landlord to comply with the *Act* with regard to his quiet enjoyment of his rental unit and common areas until he vacates at the end of October, 2011.

The landlord does not deny that he has got into confrontations with the tenant but I have insufficient corroborating evidence from the tenant to determine if these confrontations are a result of an ongoing dispute between the parties or are led by the landlord. I also have no evidence in front of me that the landlord has stolen the tenants mail and as an ongoing investigation is taking place I am not prepared to comment on this matter without corroborating evidence from the tenant.

Consequently I am not prepared to issue an Order for the landlord to comply with the *Act* as the tenant has not met the burden of proof in this matter. However, I would strongly suggest that both Parties avoid all contact with the other until the tenant moves from the rental unit on October 31, 2011.

Conclusion

The tenants' application is dismissed with leave to reapply if any further confrontations, instigated by the landlord, occur.

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 11, 2011.

Residential Tenancy Branch