



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** *MNDC, OLC*

### **Introduction**

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act*, for a monetary order for compensation and for an order seeking landlord's action to comply with the *Act*. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

At the start of the hearing, the tenant informed me that she had moved out on March 07, 2012. Therefore the portion of her application for an order seeking landlord's action is moot. Accordingly, this hearing only dealt with the tenant's application for a monetary order for compensation and the return of the security deposit.

### **Issues to be decided**

Has the tenant established a claim for compensation? Has the tenant given the landlord her forwarding address in writing?

### **Background and Evidence**

The tenancy started on December 29, 2011. The monthly rent is \$650.00 due on the first of each month. The rental unit is located in the basement of the home. The landlord lives upstairs. The tenant moved out On March 07, 2012. The security deposit and the rent were paid directly to the landlord by Social Services.

The landlord testified that she contacted Social Services to inform them that the tenant had moved out and was advised to return rent for March 2012 and the security deposit to the Minister of Finance. The landlord complied.

The tenant stated that the landlord committed a crime by doing so as she was supposed to return the security deposit to the tenant. However, the tenant has not provided the landlord with a forwarding address in writing. I have informed both parties that the tenant was at liberty to apply for the return of the security deposit after the landlord was given a forwarding address in writing.

The tenant filed 14 pages of hand written evidence. Her main complaint is that the landlord believes in false Gods, loves to lie and doesn't respect laws which are "*inspired from the primacy of rights of the supremacy of God and our Christian ancestors*"

The tenant stated that the landlord harassed them, threatened and intimidated them and kept her own child awake late at night and set the sound on her television at a high volume even after 11 pm at night.

The tenant denied all the tenants' allegations and stated that the tenants stand outside the home with religious publications in hand and preach to passersby. The landlord stated that on one occasion, the tenants stood outside her front door with religious materials in hand and attempted to speak with her child and her visitors and therefore she asked them to conduct their activities away from her house.

The tenant stated that when the landlord looked at her, the landlord's eyes were "troubled" and "in fear". The tenant stated that the landlord is "anti Christian", has an "evil spirit" and refuses to respect Canadian law. The tenant also added that if she "goes against Christianity, her citizenship is broken".

The landlord stated that she was fearful for her safety and that of her family due to the ritualistic behaviour of the tenants. She stated that the tenants falsely accused her of worshipping false gods and conducting criminal activity.

The tenants stated that for all the above reasons regarding the landlord, her beliefs and her criminal behaviour, they decided to move out. The tenants are claiming compensation in the amount of \$2,000.00 for harassment and threats from the landlord and for the above described behaviour of the landlord.

The tenants stated that they spent at least 30 hours looking for a place to rent and incurred transportation costs to visit rental units. The tenant is claiming \$500.00 towards the cost of her time and transportation. The tenant is also claiming \$650.00 for the cost of a moving truck and time spent cleaning the new rental unit. The tenants did not file any receipts to support their monetary claim.

### **Analysis**

Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing. If the landlord fails to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address, the landlord is liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security deposit.

In this case, the tenants failed to provide the landlord with their forwarding address in writing and therefore did not receive the security deposit. The landlord stated that upon the advice of Social Services, she returned the deposit and rent for March 2012, to Social Services.

Harassment is defined in the Dictionary of Canadian Law as “engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome”. As such, what is commonly referred to as harassment of a tenant by a landlord may well constitute a breach of the covenant of quiet enjoyment. Every tenancy agreement contains an implied covenant of quiet enjoyment.

In order to prove an action for a breach of the covenant of quiet enjoyment, the tenants have to show that there has been a substantial interference with the ordinary and lawful enjoyment of the premises, by the landlord’s actions that rendered the premises unfit for occupancy.

With regard to the tenant’s monetary claim for compensation for the loss of quiet enjoyment, I have reviewed the submissions of both parties and I find that the two months of the tenancy were very stressful on both parties for different reasons. It is my determination that the parties found themselves in a situation which had progressively evolved and for which each had made some contribution to its unfolding. The tenant has strong religious beliefs and practices which are different from those of the landlord. Other than the understandable angst and stress which accompanies a state of disagreement and uncertainty, the tenants did not provide compelling evidence to support their claim of compensation for harassment and intimidation and therefore the tenants’ claim for compensation is dismissed.

The tenant made a decision to move out and therefore the landlord is not responsible for the cost of moving, looking for a place to rent, transportation and time spent cleaning the new rental unit. Accordingly the tenant’s claim for a total of \$1,150.00 is dismissed.

### **Conclusion**

The tenants’ application is dismissed in its entirety.

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: March 15, 2012.

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Residential Tenancy Branch