



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC and RR

Introduction

This hearing was convened on the tenant's application for a monetary award for damage or loss under the legislation or rental agreement, an order that the landlord comply with the legislation and a rent reduction on the claim that the tenant has suffered a loss of quiet enjoyment of the Manufactured Home Park site.

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Issue(s) to be Decided

This matter requires a decision on whether the landlord has permitted activity in the Manufactured Home Park that diminished the tenant's quiet enjoyment of her home and whether and in what form and amounts the tenant may be entitled to monetary compensation.

Background and Evidence

This tenancy began in August of 2010 and the pad rent is currently \$450 per month.

During the hearing, the tenant submitted a diary of activities and her interactions with two neighbours which she held to be responsible for her loss of quiet enjoyment.

These included a series of incidents involving her next door neighbour including burning of noxious materials and late night disturbances, and allegations of the neighbour's use of illicit drugs. The tenant submits that the neighbour scratched comment on her car with a key – and conceded during a confrontation that she had done so - resulting in a substantial repair bill.

The applicant tenant also complained of ongoing conflict with another tenant over his dog running loose and his operation of a loud motorcycle.

The landlord stated that with respect to the tenant with the dog running free who has since moved, he had spoken with both parties and he was of the view that matters had improved considerably as a result.

He stated that he had asked the applicant tenant to be less confrontational with the other tenant and to advise him of any ongoing issues. As a result of one confrontation, the applicant stated that the other tenant had uttered threat causing her substantial anxiety, particularly during her morning dog walks.

The tenant stated that she had repeatedly advised that the park manager of the noise from her next door neighbour but that he had hardly ever responded. The manager stated that he had responded on all but two occasions, one when he was sleeping and the other a domestic disturbance on which he prudently deferred to police.

The manager stated that on most occasions, when he attended to investigate noise complaints against the neighbour, he was not able to detect any undue noise. On those times he heard loud music, he asked the neighbour to turn it down and she readily complied. He stated that complaints sometimes came earlier in the evening than the 10 p.m. quiet time under park rules.

The landlord said he canvassed the other neighbours, and with one exception, none had heard the disturbances. When one neighbour stated that she had heard some noise that might well disturb the applicant tenant because of her closer proximity, he contacted the primary tenant who attempted to work with his sub tenant, and when that apparently failed, the tenant ended the sub tenancy.

The tenant gave further evidence that she had been forced to vacate her own rental unit for a period on three occasions because the neighbouring tenant's disturbances.

Both the landlord and the park manager stated that the applicant tenant complained so habitually that it brought her credibility into question.

In addition to the park manager and the landlord, the tenant had filed complaints with the fire department over the burning, police, and the local bylaw enforcement office.

The landlord said that he had met with fire officials to investigate the issue of the burning of improper materials (mattress, hide-a-bed, and futon among others) and learned that the offending tenant had been warned of fines if the practice was continued.

The tenant stated that there was drug dealing in the park, an allegation about which the landlord stated that he had no direct knowledge but a concern he had discussed with police.

The tenant also expressed disapproval over the neighbour changing her cupboards and other such matters which are beyond the purview of the landlord. In addition, the tenant demanded to be informed of the landlord's tenant screening practices which I find to be among the business practices the landlord is not obliged to share with tenants.

The landlord submitted a letter of complaint about the applicant tenant who had apparently thought he was a prospective purchaser and spoke to him in such negative terms about the park and the landlord, that after disagreeing with her, he asked her to leave.

Analysis

Section 22 of the *Act* bestows upon tenants a right of quiet enjoyment including a right to freedom from unreasonable disturbance.

Residential Tenancy Policy Guideline 6. Provides that: "Frequent and ongoing interference by the landlord, or, if preventable by the landlord and he stands idly by while others engage in such conduct, may for the basis for a claim of a breach of the covenant of quiet enjoyment."

The guideline further provides that: "A landlord would not normally be held responsible for the actions of other tenants unless notified that a problem exists, although it may be sufficient to show proof that the landlord was aware of a problem and failed to take reasonable steps to correct it."

I find that the landlord has, in large, taken reasonable steps to investigate the tenant's complaints and to take appropriate action when it seemed necessary.

However, by her own accounting of her interactions with others, I find that the tenant's aggressive approach with others may very well have contributed to the escalation of minor conflicts and delayed their resolution.

In the landlords written submission, he stated that, "I take all complaints seriously and try to resolve any issue lawfully through diplomatic channels...firstly, with a personal visit to hearing both sides....., then...a warning letter...and then, if all else fails, a Notice to End Tenancy if I determine that is warranted."

Certainly, the applicant tenant has benefited from the landlord's circumspect approach as he allowed her to be late with her rent in January 2012 (paid in February), then did not take action when she withheld rent for March, finally issuing a 10-day Notice to End Tenancy on April 5, 2012, resulting in payment of the rent five days later.

On balance, I find that the landlord has took reasonable action to address the tenant's complaints and the application is dismissed without leave to reapply.

Conclusion

The application is dismissed without leave to reapply.

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: May 14, 2012.

Residential Tenancy Branch