



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC OLC LRE FF

Introduction

This hearing dealt with an Application for Dispute Resolution under the *Residential Tenancy Act* (the “*Act*”) by the tenant for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; an order directing the landlord to comply with the *Act*, regulation or tenancy agreement; to suspend or set conditions on the landlord’s right to enter the rental unit; and to recover the filing fee.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

Issue(s) to be Decided

- Should the tenant be granted a monetary order?
- Should the landlord be ordered to comply with the *Act*, regulation or tenancy agreement?
- Should the landlord’s right to enter the rental unit be suspended or conditions set?
- Should the tenant recover the filing fee?

Background and Evidence

Both parties agree that a month to month tenancy agreement began on July 1, 2011. Monthly rent in the amount of \$1,300.00 is due on the first day of each month. Both parties agree that the tenancy will be ending on June 30, 2012 based on the prior written notice provided by the tenant. The landlord confirmed she was served with the application for Dispute Resolution in accordance with the *Act*.

Both parties agree that a letter dated May 22, 2012 indicated that the landlord will be showing the rental unit between 10:00 a.m. and 8:00 p.m. Monday through Sunday. The

tenant stated this was not reasonable or sufficient written notice under the *Act*. The landlord testified that she only showed the rental unit approximately six times. The tenant stated that rental unit was shown between five to seven times.

Settlement Agreement

Section 63 of the *Act*, states:

Opportunity to settle dispute

63 (1) The director may assist the parties, or offer the parties an opportunity, to settle their dispute.

(2) If the parties settle their dispute during dispute resolution proceedings, the director may record the settlement in the form of a decision or an order.

During the hearing, a mutual agreement between the tenant and the landlord was reached. The agreement is that the tenant would provide the following times for the landlord or the landlord's agent to show the rental unit, which has been agreed by both parties as reasonable:

- **Monday to Friday from 10:00 a.m. to noon; and**
- **Thursday to Sunday from 7:00 p.m. to 8:30 p.m.**

The times indicated above, had been previously proposed in writing by the tenant in a letter dated May 15, 2012 and provided as documentary evidence in advance of this hearing. The tenant testified that she documented three of the five to seven showings conducted, were outside of the times the tenant proposed in her May 15, 2012 letter to the landlord. Given the above, the tenant agreed that her initial claim of \$800.00 for loss of quiet enjoyment was excessive. Therefore, pursuant to section 67 of the *Act*, I find a nominal fee of **\$100.00** to be a reasonable compensation for the loss of quiet enjoyment suffered by the tenant.

As the tenant was successful in her application, and a mutual settlement agreement was reached between the parties, I grant the tenant **\$50.00** for recovery of the filing fee.

Conclusion

I find that the tenant is entitled to monetary compensation pursuant to section 67 in the amount of **\$150.00** as described above. This order must be served on the landlord and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. I dismiss the remaining portions of the tenant's claim due to the settlement agreement described above.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: June 14, 2012

Residential Tenancy Branch