



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This was a hearing with respect to the tenant's application for a monetary order. The hearing was conducted by conference call. The tenant and the landlord called in and participated in the hearing.

Issue(s) to be Decided

Is the tenant entitled to a monetary award and if so, in what amount?

Background and Evidence

The rental unit is an apartment in Vancouver. The tenant filed her application on October 31, 2012. She claimed payment of the sum of \$10,000 as compensation for the actions of the landlord during October and November, 2010 when the tenant resided in the rental unit and was employed as the landlord's part-time resident manager.

In the Application for Dispute Resolution the tenant claimed a monetary award of \$10,000.00. In the "Details of the Dispute" she said: "I have at least 13 strong witnesses to the horrific actions of (name of landlord) against me from Oct. 2010 – Nov. 2010 & how his deceitful, unethical, destructive & illegal actions impacted my life for the worst from the day I moved into his building."

At the hearing the tenant said that she was employed by the landlord to be the part-time resident manager of his apartment building. She complained that the landlord violated her privacy. She said that the landlord lied to her when he advertised the 42 apartment resident caretaker job as part-time, but then kept her occupied from 8:00 A.M. to 10:00 P.M., seven days a week. She said she was unpaid for work that she performed for 16 days. The tenant claimed that she was in a car accident that happened because of the effects of the landlord's abuse and mistreatment. The tenant alleged that the landlord monopolized all of her time, entered her apartment without notice, using his key, treated her as an indentured servant and was responsible for her failure to pass a university course with consequent damages to her career and income.

The tenant testified that when she complained to the landlord about his constant intrusions, the landlord gave her verbal notice to move out within 48 hours. The tenant said that she moved out pursuant to the landlord's verbal notice. She contended that this was an illegal eviction and she said that her damage claim related to this illegal eviction and the effects it had upon her life.

In her written submissions, the tenant said that she was claiming:

Expenses Caused by (name of Landlord)'s Flagrant Violations of My Privacy for nearly 3 weeks & his subsequent illegal 48 hour verbal termination of my employment as resident apt. manager: (reproduced as written)

The tenant said that:

My application through Residential Tenancy Branch is only for the first \$10,000 in damages so that it will be on record with RTB how (name of landlord) treats his resident managers and tenants. (reproduced as written)

The tenant said that she will take the landlord to another court for the rest of the damages in the near future. She said that she would seek compensation for economic losses totaling \$125,148.16: She said that this amount was for:

OTHER LOSSES THAT I WILL SEEK COMPENSATION FOR WHEN I GET ALL MY WITNESSES' STATEMENTS AND START A CASE WITH ANOTHER COURT (reproduced as written)

Analysis and conclusion

At the hearing after hearing testimony from the tenant as set out above, I advised the tenant that I had decided that I did not have jurisdiction to hear the tenant's claims in this application and therefore I would not hear further evidence or proceed further with the hearing; I advised the parties I would provide written reasons for my decision.

I have concluded that I do not have jurisdiction to hear this claim for several reasons. The first is that the tenant's claims are related to her employment with the landlord and only peripherally to her tenancy, which existed as an adjunct to that employment.

The *Residential Tenancy Act* provides by section 2:

What this Act applies to

2 (1) Despite any other enactment but subject to section 4 [*what this Act does not apply to*], this Act applies to tenancy agreements, rental units and other residential property.

(2) Except as otherwise provided in this Act, this Act applies to a tenancy agreement entered into before or after the date this Act comes into force.

The Act governs the relationships, rights and responsibilities of tenants and landlords; it mandates the essential contents of residential tenancy agreements and determines how, and under what circumstances tenancy agreements may be ended. The Act does not govern the relationships or contractual agreements of landlords and tenants that are separate from their relationships as landlord and tenant; as the landlord's resident manager the applicant was a tenant as an adjunct to her employment by the landlord, but the Act conveys no jurisdiction to supervise or enforce rights under the contract of employment, as distinct from the tenancy.

In her written submissions the bulk of the tenant's grievances related to the landlord's conduct as her employer and what she described as her "indentured servitude", which I understand to be related to the landlord's excessive demands of her as an employee. As noted, I have no jurisdiction to deal with the tenant's claims that are related to her employment and this is one of the principal reasons why I have declined jurisdiction.

The tenant claimed at the hearing that she was illegally evicted when the landlord gave her a 48 hour verbal notice. She suggested at the hearing that much of her damages flowed from that claimed illegal eviction, but instead of insisting upon a proper Notice to End Tenancy as she could have done under the *Residential Tenancy Act*, which she could have disputed, the tenant appears to have agreed to end the tenancy because she accepted the ineffective notice and moved out of her own accord. In her own materials, the tenant complained that the landlord had improperly ended her employment on 48 hours notice; thus it appears to me that the employment element of the claim is of greater significance than the tenancy aspect.

Finally, I find that the tenant is improperly attempting to split her claim. In her written submissions she has said that her claim to the Residential Tenancy Branch is only for the first \$10,000.00 in damages and she intends to seek additional compensation in an amount exceeding \$100,000.00 in some other court.

It is a well established principle as part of the *res judicata* doctrine that a party may not divide a single or indivisible claim, or cause of action into separate parts and bring

separate suits upon it, either in the same court, or in separate courts or jurisdictions. This is referred to as claim splitting.

The tenant has not said that she will abandon the excess of her claim beyond the \$10,000 that she seeks in this application, but rather she has explicitly stated her intention to improperly split her indivisible claim for an amount exceeding the monetary jurisdiction under the *Residential Tenancy Act* into one amount to be sought here and another larger amount to be claimed elsewhere in another proceeding.

The true amount of the tenant's claim exceeds the monetary jurisdiction granted under the Act and for this reason as well as those previously expressed, I find that I do not have jurisdiction to hear this application.

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: February 07, 2013

Residential Tenancy Branch

