



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Peace Arch Senior Citizens Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, OLC

Introduction

This hearing dealt with an application by two tenants living in separate units in the same residential complex, run by the same landlord. Both tenants have filed seeking an application seeking an order for the landlord to comply with the Act, regulation or tenancy agreement and a monetary order for money owed or compensation for damage or loss under the Act, the regulation or the tenancy agreement. Both parties participated in the hearing.

Issue(s) to be Decided

Are the tenants entitled to a monetary order?

Are the tenants entitled to an order to have the landlord comply with the Act , the regulation or the tenancy agreement.

Background and Evidence

The tenants gave the following testimony:

The tenants reside in a facility that caters to the elderly and provides alternative affordable housing to seniors. The tenants stated that they have been the target of bullying and elder abuse. One tenant stated that she has lived in this complex for over ten years and the other tenant for 19 years. Both tenants stated that they have caused

no trouble to the management during this time. The tenant that is listed first on this matter stated the issues began when management demanded the tenants provide information to pay their rent by way of pre-authorized automatic withdrawal. The second tenant listed on this matter stated that her issue began when she had notified the resident caretaker about spilling some cream on the carpet during a family get together. Both tenants stated that they were verbally berated by the resident caretaker and felt threatened by him at times. The tenants stated they were the target of ongoing abusive behaviour for the past 15 months. The tenants stated that they did not notify the board of directors of these issues at the outset due to ongoing past issues that occurred several years prior. The tenants sought the assistance of counsel to help remedy the situation but to no avail. The tenants stated that they are tired of being accused of false accusations and verbal abuse and bullying. The tenants stated that things have gotten so bad that family members haven't visited for over a year due to the abusive nature of management.

The landlords had Counsel and the secretary for the board of directors represent them for this hearing and were fully instructed. The testimony of the landlords is as follows:

Counsel for the landlords stated that the issue of the pre-authorized payment for the rent was no longer an issue and that the tenants were free to pay their rent in the manner that suits them. Counsel stated that the resident caretaker that the tenants allege that they had issues with is no longer employed by the landlords. The member from the board of directors stated that when she confronted the resident caretaker about this allegation he vehemently denied it. Counsel for the landlords stated at the outset of the hearing that the tenants did not provide a clear and logical explanation of their application and that the evidence submitted for this hearing was not complete in nature for the landlord to properly prepare to address those claims. Counsel further stated that matter should be adjourned if the tenants' evidence was to be considered by me when issuing a decision.

Analysis

At the outset of the hearing Counsel for the landlords requested the matter to be adjourned due to the unclear and confusing nature of the tenants' application so that they could better prepare for the hearing.

As explained to the parties during the hearing, the onus or burden of proof is on the party making the claim. In this case, the tenants must prove their claim. When one party provides evidence of the facts in one way, and the other party provides an equally probable explanation of the facts, without other evidence to support the claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails.

As the burden of proof lies with the tenants as stated above I did not find it prejudicial to the landlord to conduct the hearing, accordingly we proceeded. The hearing was conducted in accordance with the rules of procedure ensuring both parties were given ample opportunity to present their evidence and give testimony to allow procedural fairness.

The tenants originally filed for compensation of \$20,000.00 combined. I asked the tenants at the beginning of the hearing if they were still seeking that amount and they indicated that "it's never been about the money" and that they were here for "justice and to begin the healing". I asked both tenants a second time about this portion of their application and whether they were seeking a monetary order. Both tenants confirmed that there were not seeking any money and that the reason they listed the amount was to "show that we were serious about this". Based on the above, I dismiss the monetary portion of the tenants' applications.

The parties engaged in some discussions for resolutions during the hearing however the parties were unable to come to an agreement about the terms.

The remaining issue before me was that the tenants were seeking an order for the landlord to comply with the Act, the regulations or the tenancy agreement. Both tenants wanted the “lies and false accusations corrected”. The tenants stated that they had both been accused of being bad people along with their family members and they wanted those allegations retracted and corrected. As the tenants were self represented I attempted to assist them by having them focus on the application as applied for and the issue before me however each time an attempt was made the first tenant would refer to anecdotal comments of issues and events that were irrelevant or from many years past. I made numerous attempts in asking the tenants to address their application as it was submitted to me but to no avail. The tenants were not clear in their testimony, in particular the first tenant listed on this matter. The tenant gave disjointed, vague and at times very confusing testimony. When I questioned the tenant and asked for specifics she would revert to issues that were not before me or launch into a dialogue about documents that she wished to rely on but not submitted as part of this hearing. I did not find the tenants testimony compelling. The tenants were not able to provide sufficient evidence to support this portion of their claim and I therefore dismiss this portion of their application.

Conclusion

Both tenants’ applications are dismissed in their entirety 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 21, 2013

Residential Tenancy Branch

