



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, RR, FF

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for compensation for loss – Section 67;
2. An Order for the Landlord to comply with the Act, tenancy agreement or regulation– Section 62;
3. An Order allowing a rent reduction - Section 65; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to the monetary amount claimed?

Is the Tenant entitled to an order that the Landlord comply?

Is the Tenant entitled to a reduction in rent?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The tenancy started in 2010 and ended on July 1, 2013. Rent of \$700.00 was payable monthly and at the outset of the tenancy the Landlord collected \$350.00 as a security deposit. The Landlord purchased the unit on March 28, 2013 and lives in the upper part of the house.

The Tenant states that upon purchasing the unit, the Tenant has had issues with the Landlord. The Tenant states that the Landlord has failed to keep the grass mowed and that the Tenant developed allergies as a result, including a skin rash. The Tenant states that as a result of the allergies, the Tenant was unable to work and lost income. The Tenant provided a copy of a prescription. The Landlord states that the grass is cut frequently and only once was it allowed to grow a bit long. The Landlord states that the Tenant never made any complaints to the Landlord about any problems with the unit or yard during the tenancy.

The Tenant states that the Landlord failed to keep garbage in the bins and that rats were seen in the yard. The Tenant states that as the house contains other rental units and that seven people lived in the house, the size of the garbage bins are inadequate. The Landlord states that the Landlord is not leaving garbage outside the bins but that other tenants are doing this. The Landlord states that the photos show that the bins are not full and that garbage has been placed outside the bins. The Landlord states that every night he would collect the garbage and place it in the bins.

The Tenant states that a bad smell has been in the unit and after hiring an inspector was told that the smell was coming from the sewer. The Tenant states that the smell damaged his clothes as washing the clothes did not get rid of the smell. The Tenant states that the inspector informed the Tenant that the suites in the unit were illegal. The Landlord denies any smell or that there is a problem with the sewer. The Landlord states that he could hire an inspector to show that there is no problem with the sewer.

The Tenant states that when his nephew came to visit the Landlord told the Tenant he could not have guests and his nephew had to leave. The Tenant states that the Landlord falsely accused him of assaulting a person and that the police who were called to the unit told the Tenant that the accusation was unfounded. The Tenant states that the Landlord on one occasion entered the unit as when the Tenant came home on this one occasion the lock from his side of the unit was open.

The Landlord denies telling the Tenant that he could not have his nephew as a guest but that he told the Tenant and his guest not to smoke in the unit. The Landlord states that the Tenant pushed the Landlord's wife when they went to his unit to collect unpaid rent and their son called the police out of fear. The Landlord states that the Tenant was very aggressive towards them, that they have never entered the unit and would never enter the unit without the Tenant's permission.

Analysis

Section 7 of the Act provides that where a landlord does not comply with the Act, regulation or tenancy agreement, the landlord must compensate the tenant for damage or loss that results. In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that the damage or loss claimed was caused by the actions or neglect of the responding party, that reasonable steps were taken by the claiming party to minimize or mitigate the costs claimed, and that costs for the damage or loss have been incurred or established.

Although the Tenant claims damages for the development of allergies, given that the Tenant did not provide any medical evidence to substantiate this claim, such as a doctor's report detailing the cause of the Tenant's allergies, I find that the Tenant has failed to substantiate that anything the Landlord failed to do caused the allergies. I also find that the Tenant has not substituted that the Landlord left garbage outside the unit and I accept the Landlord's evidence that garbage that was left was cleaned up every night by the Landlord. Even if the Landlord did not collect the garbage, the Tenant has not shown that this action caused any loss to the Tenant.

Noting that the Tenant did not provide any evidence from an inspection or other tenants in the house, and considering the Landlord's evidence that nobody has complained about a sewer smell, I find that the Tenant has failed to substantiate that there was a sewer smell that contaminated his clothing. Whether or not the Landlord falsely accused the Tenant of assault, or asked his guest to leave, or entered the unit without

permission, the Tenant did not provide evidence of any losses arising from the Landlord's actions. As the Tenant has failed to substantiate losses arising from the Landlord's actions or lack thereof, I dismiss the Tenant's claim for compensation. As the tenancy has ended, I dismiss the Tenant's claim for orders that the Landlord comply and for a rent reduction. As none of the Tenant's claims have been successful, I dismiss the Tenant's application.

Conclusion

The Tenant's application is dismissed.

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: July 09, 2013

Residential Tenancy Branch