



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Boardwalk Rental Communities
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, OLC, LRE, LAT, O

Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- authorization to change the locks to the rental unit pursuant to section 70; and
- other unspecified remedies, described in their application for dispute resolution as a monetary award for their loss of quiet enjoyment of the rental unit.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to cross-examine one another. The landlord confirmed that the tenants gave their written notice to end this tenancy to one of the landlord's representatives on July 28, 2013. The landlord also confirmed that the tenants handed a representative of the landlord a copy of their written dispute resolution hearing package on August 8, 2013. I am satisfied that the tenants served the above documents to the landlord in accordance with the *Act*.

At the commencement of the hearing, the parties confirmed that the tenants vacated the rental unit by August 31, 2013, in accordance with the end date of their fixed term tenancy agreement and their written notice to end this tenancy. As such, they said that there was no need to consider any of the items noted on their application for dispute resolution other than their application for monetary awards and the recovery of their filing fee. The tenants' applications for the issuance of non-monetary orders against the landlord are withdrawn.

Issues(s) to be Decided

Are the tenants entitled to a monetary award for their loss of quiet enjoyment of this tenancy?

Background and Evidence

This one-year fixed term tenancy commencing on September 1, 2012 was scheduled to end on August 31, 2013. Monthly rent was set at \$1,049.00, payable in advance on the first of each month. The landlord continues to hold the tenants' \$499.00 security deposit paid on August 29, 2012.

The parties agreed that the female tenant participated in a joint move-out condition inspection in which she gave her written agreement allowing the landlord to retain a portion of the tenants' security deposit. The landlord said that he expected that a cheque for the return of the remainder of the tenants' security deposit has been issued and is on its way to the tenants at the forwarding address they provided to the landlord at the move-out condition inspection.

The tenants' application for a monetary award for \$1,050.00 was for \$1,000.00 in their loss of quiet enjoyment during the last month of their tenancy plus the recovery of their \$50.00 filing fee. They entered into written evidence copies of the landlord's multiple 24 hour notices requiring them to make their rental suite available for showings to prospective tenants for most of the days in August. In their application for dispute resolution, the tenants stated the following:

For August the final month of tenancy the landlord has informed us they will issued entry notices everyday from 9am-5pm, just in case there is someone who wants to see the unit off the street. There is no specific time given or the number or times of specific entries. We view this as not "reasonable"...

The landlord did not dispute the tenants' description of the frequency of the landlord's notices to gain access to the rental unit for the purposes of showing the rental unit to prospective tenants. He confirmed that a series of 24 hour notices were posted on the tenants' door. He also confirmed that there were no scheduled appointments with any prospective tenants for any of the multiple 24 hour notices provided to the tenants during August 2013. He stated that this is the established practice of the owner of this property for the three rental buildings the landlord owns in this province and in the landlord's more extensive portfolio of rental buildings in the Province of Alberta.

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings,

the settlement may be recorded in the form of a decision or an order. During the hearing, the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to a final and binding resolution of the tenants' application under the following terms:

1. The landlord agreed to pay the tenants a total of \$400.00 by September 27, 2013.
2. The tenants agreed that the landlord's payment of \$400.00 constituted a final and binding resolution of the tenants' application for a monetary award for losses and damages arising out of this tenancy, for their loss of quiet enjoyment during August 2013, and for the recovery of their filing fee.
3. The tenants agreed to withdraw all non-monetary portions of their application for dispute resolution.
4. Both parties agreed that this settlement agreement constituted a final and binding resolution of all issues in dispute at this time as set out in the tenants' application for dispute resolution.

Conclusion

In order to implement the above settlement reached between the parties, I issue a monetary Order in the tenants' favour in the amount of \$400.00. I deliver this Order to the tenants in support of the above agreement for use **only** in the event that the landlord does not abide by the terms of the above settlement. The tenants are provided with these Orders in the above terms and the landlord must be served with a copy of these Orders as soon as possible after a failure to comply with the terms of the above settlement agreement. Should the landlord fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

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: September 13, 2013

Residential Tenancy Branch

