Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing dealt with an application by the tenants for a monetary order in the amount of $25,000. Both parties participated in the conference call hearing.

In a written statement submitted prior to the hearing, the respondent, who is an agent of the owner of the manufactured home park (the "Park") which is the centre of this dispute, suggested that the claim was improperly brought against him and that the proper respondent was the owner of the Park. Because the agent falls within the broad definition of "landlord" under the Act, I found that he was properly named as a respondent and the hearing proceeded as against him.

Within a week after the hearing had concluded, the landlord submitted a letter to the Residential Tenancy Branch to be admitted into evidence. I did not read this letter or consider it in my deliberations.

Issue to be Decided

Are the tenants entitled to a monetary order as claimed?

Background, Evidence and Analysis

The tenants have resided in the Park since 2005 and seek an award of $25,000.00 for loss of quiet enjoyment experienced during their tenancy. The tenants' written evidence contains dozens of pages of complaints. At the hearing, I asked the tenants to identify the issues they wanted me to address and they identified the following 5 issues.

I have addressed the testimony of the parties and my analysis around each issue below.

Neighbour

The tenants testified that their immediate neighbour, who resides in an RV, has behaved aggressively toward them, on one occasion driving her car quickly toward one tenant before swerving at the last minute. The neighbour has also called the tenant names and called 911 to report the tenants for no reason. The tenants further testified that the neighbour's door is right outside their bedroom window and that the neighbour frequently leaves her home during the creating an unreasonable amount of noise by banging her door loudly. The tenants stated that they have complained to the landlord about the excessive noise, but the landlord has not resolved the problem.

The tenants provided a statement from the female tenant's sister in which she wrote that on August 15, the female tenant requested that she come to the home because the neighbour was pacing back and forth outside the window and the tenant was afraid to come out of the house after having been in a verbal altercation a few days before. Other written statements state that the female tenant's demeanour has changed recently, which the author theorized meant that she had been through some sort of trauma. The tenants' daughter wrote a statement in which she stated that she would not permit her son to go to the rental unit as he and the female tenant had been subjected to "aggressive behaviour" by the neighbour.

The landlord testified that the neighbour is renting from his tenant and he has spoken to his tenant about the animosity between the tenants and the neighbour. The landlord testified that he has witnessed the female tenant screaming at the tenant that RV'ers should not be in the Park. The tenant denied having ever screamed at the neighbour. The landlord stated that in his opinion, the tenants and the neighbour are verbally abusive to each other. He claimed that he had not been advised about the noise issues prior to the hearing.

Section 22(b) of the Act states that tenants are entitled to freedom from unreasonable disturbance. In order to succeed in their claim, the tenants must prove that they have been disturbed, that the disturbance was unreasonable and that they brought the issue to the attention of the landlord to provide opportunity to remedy the situation.

There is no dispute that there is an ongoing verbal disagreement between the female tenant and the neighbour. Although the tenant claims that she has done nothing to antagonize the neighbour, I accept the landlord's testimony that the female tenant screamed at the neighbour. I have accepted this testimony as his evidence was clear and unembellished throughout the proceeding and his testimony had the ring of truth. I find it more likely than not that the women in question have aggravated each other and that through engaging in these exchanges, the female tenant has to some degree

encouraged the animosity to continue. I do not accept that the tenants are under any physical threat whatsoever as there is no persuasive evidence in that regard. The incident with the car driving in their direction is not supported by corroborating evidence and I find that it could easily have been misinterpreted. Although the female tenant claims that her physical and psychological condition has been significantly impacted, I find that as she has played a role in the continuing animosity, the landlord bears no responsibility for her condition.

I note that much of the tenants' written evidence consists of statements authored by them which record instances in which the neighbour gave them dirty looks or, on one occasion, had a "staredown" with their grandson. Dirty looks or staring are not compensable under any circumstances.

I accept that the tenants have been bothered by the sound of the neighbour's door banging during the night, but I accept the landlord's testimony and I find that this matter has not been brought to his attention previously.

I dismiss this part of the claim.

Pets

The tenants testified that in July 2012, their cat Frosty was attacked by a dog which brought the cat over a 4' fence into another party's back yard and together with other dogs caused significant injuries. The female tenant witnessed the attack. On an earlier occasion, they found another cat dead in another party's back yard and yet another cat died from injuries suffered from an attack by another animal. The tenants further testified that their dog was attacked in their own yard by dogs which were being walked by a young girl who could not control them. The tenants testified that there is a park rule requiring that all dogs be on a leash, yet this rule is inconsistently applied.

The tenants stated that they reported each incident to the landlord and in each case, he asked whether they had witnessed the attacks and when told they hadn't, he did not act on the information.

The landlord testified that he was aware of the difficulties with other pets and suggested to the tenants that they put up a fence. The landlord said that he was under the impression that the parties had worked things out between themselves.

In order to hold the landlord liable for the deaths and injuries of the pets, the tenants must prove that the landlord was negligent. The landlord has clearly communicated a leash rule in the Park and it appears that in each case, the attacks occurred when dogs escaped from their owner's yards or in the case of the dogs being walked by the young

girl, while they were on a leash. I find that the landlord has acted responsibly in communicating a reasonable rule and that if the tenants wish to be compensated for the loss of their pets or the cost of treating their injuries, they should look to the owners of the animals for that compensation. I dismiss this part of the claim.

Addition

The tenants testified that in 2011, they hired contractors to build an addition on their home. The contractors installed 14' floor panels and were told by the landlord that they had to remove 2' with little roof overhang as the rules prohibited porches in excess of 12'. The tenants provided a written statement from the contractor. The tenants claimed that the rule was inconsistently applied and provided photographs of other additions which contravened the rule.

The landlord testified that he would not have restricted the degree of the overhang as the rule does not address it. The landlord denied applying the rule inconsistently.

The tenants' photographic evidence shows an addition with a wide deck, but does not provide precise measurements. The overhang in the photographs hangs over the deck and not beyond, so it is within the 12' allowance. I am not satisfied on this evidence that the rule is inconsistently applied, but even if I were to find that it was, I find that the tenants have not proven how they suffered a monetary loss as a result. I dismiss this part of the claim.

Gas Meter

The parties agreed that the manufactured home site does not have an independent natural gas meter hooked up. The tenants testified that they complained to the landlord 2 years ago, but the problem was not resolved. The landlord testified that as the occupants of the site, the tenants can arrange with Fortis to have the meter installed free of charge and that it would cost them $25.00 to open an account with Fortis. The tenants did not dispute this assertion.

The tenancy agreement clearly states that the tenants are responsible for the payment of natural gas. I accept that a natural gas line runs to the property and that all the tenants need to do is arrange with Fortis BC for the installation of a meter and pay an account opening fee and I find that they are responsible for that fee. I find that the landlord is not responsible for the situation and accordingly I dismiss this part of the claim.

Water quality

The tenants provided a copy of a water quality report issued by the Ministry of the Environment. The report shows that the water is acceptable, although it notes that barium and sedum exceeded recommended guidelines and stated that people on a sodium restricted diet should further treat the water. The tenants argued that the landlord was obligated to provide them with a copy of the report and testified that they had heard from other tenants that veterinarians had said that the water was not safe to feed pets.

The tenants provided no proof that they have suffered any kind of loss as a result of the water quality and absent a report from a veterinarian, I am not satisfied that the water is unsuitable for pets. Tenants in the park who suffer from health issues bear the burden of investigating the chemical makeup of what they ingest, including water, and as the report issued by the Ministry of the Environment does not require the landlord to treat the water, I find that the landlord was under no obligation to distribute the report. I therefore dismiss this part of the claim.

Conclusion

I find that the tenants have proven no entitlement to compensation. The claim 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: November 22, 2013

Residential Tenancy Branch