



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, RR

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution, seeking a monetary order against the Landlords for compensation under the Act or tenancy agreement, and to allow the Tenant to reduce rent for loss of services or facilities.

Only the Tenant and her Witness appeared at the hearing. They gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Witness for the Tenant testified she had assisted the Tenant in making her Application. The Witness testified she served the male Landlord with the Notice of Hearing and the Application in person on December 6, 2013, and had served the female Landlord by registered mail sent on December 7, 2013. Under the Act, registered mail is deemed served five days later. I find both Landlords have been duly served under the Act, although neither appeared at the hearing. I note that refusal or neglect to accept registered mail is not a ground for review under the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Issue

The Tenant testified she had to leave the rental unit on or about December 13, 2013, as the male Landlord was acting in a strange manner which scared her. The Tenant testified the male Landlord was intentionally turning off the heat and electricity to the subject rental unit, and creating noise to disturb the Tenant. The Witness, who testified she is a mental health worker who sometimes assists renters, testified she spoke with the male Landlord and he was having mental health issues at the time of these incidents, and that the Landlord told her he wanted everyone to leave the rental

building. The Witness testified she informed the Landlord he had to give proper notices to end tenancy but according to the testimony of the Witness, the male Landlord informed her he would do as he pleases with his own building. The Witness testified she assisted the Tenant in getting emergency housing elsewhere due to the erratic behaviour of the male Landlord.

Issue(s) to be Decided

Is the Tenant entitled to monetary relief?

Background and Evidence

This tenancy began in July of 2013, with an oral tenancy agreement. I note that oral tenancy agreements are recognized under the Act, although written agreements are preferable. The Tenant was to pay \$475.00 a month in rent and she paid the Landlord a security deposit of \$237.50. According to the shelter information in evidence, the rent was to include utilities for the Tenant.

The Tenant testified and submitted that on November 28, 2013, the electricity was shut off to the rental unit for four hours; on November 29 it was shut off for half an hour, during the time the Tenant was cooking a meal. The electricity was then shut off for five minutes on November 30, and on December 2 it was shut off for four hours, and on December 4 the electricity was shut off at around 5:40 p.m. and was not turned on again until 11:30 a.m. the next day. The Tenant testified that as well as having intermittent electricity shut offs, the heating boiler in the building was being shut off at random times too. The Tenant also testified that the Landlord was in the building at around 4:00 a.m. on December 8, and making a lot of noise, with a radio turned up loudly and banging on things.

The Tenant had left the building on December 4 when the power and boiler were shut off as the rental unit was dark and had no heat. When she returned to the rental unit the next day the Witness came with her. The Witness testified that the food in the refrigerator and its freezer had thawed and all had to be thrown out due to spoilage.

The Witness testified she spoke personally with the male Landlord about these events. The Witness explained that the rental unit is one of several units built above an office building. The Witness testified that the male Landlord told her he was intentionally flipping the electrical breaker to the subject rental unit on and off, and intentionally turning off the boiler that provides heat. According to the Witness, the male Landlord informed her he was fed up with renting out the units in the building. According to her

testimony, he also informed the Witness that he was trying to get back at the Tenant for what he perceived as wrongdoings on her part toward the male Landlord's girlfriend. The male Landlord apparently informed the Witness he wanted to convert the rental units to a recovery house.

The Witness testified that when she informed the Landlord he was required to give notices to end the tenancies he replied that he could do whatever he likes with the building.

The Tenant and the Witness testified that the erratic behaviour of the Landlord caused the Tenant to fear living in the rental unit and arrangements were made for emergency housing for the Tenant, and she left the rental unit.

Analysis

Based on the above, the undisputed testimony and evidence, and on a balance of probabilities, I find the Landlord has breached the Act.

Under section 27 of the Act the Landlord was not able to terminate the electricity or heat to the rental unit as these were essential to the Tenant's use of the rental unit as living accommodation. I further find that the Landlord caused noise to occur and this is a breach of section 28 of the Act, as the Tenant is entitled to quiet enjoyment of the rental unit free from unreasonable disturbance. I find that having a radio on playing loudly and banging on things at 4:00 a.m. created an unreasonable disturbance to the Tenant.

I accept the evidence of the Tenant and the Witness that the Tenant also suffered a financial loss as the food thawed or spoiled due to the electricity being shut off.

I find the request for monetary compensation from the Tenant to be reasonable and not inflated or exaggerated, and represented a genuine loss.

Section 67 of the Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

[Reproduced as written.]

Having made the above findings, I award the Tenant **\$150.00** in financial compensation payable by the Landlords. This order must be served on the Landlords and may be enforced in the Provincial Court (Small Claims Division).

Conclusion

The Tenant has proven the Landlords disturbed her quiet enjoyment of the rental unit, and terminated or restricted services or facilities essential to the Tenant's use of the rental unit.

The Tenant is granted a monetary order of \$150.00 in compensation, payable by the Landlords. This order may be enforced in the Provincial 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: March 27, 2014

Residential Tenancy Branch

