



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GREATER VICTORIA HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: *MNDC*

Introduction

This hearing dealt with an application by the tenant, pursuant to the *Residential Tenancy Act*. The tenant applied for compensation in the amount of \$1,480.00 for alleged harassment by the landlord.

The parties provided extensive documentary evidence. I have considered all the written evidence of both parties and oral testimony provided by the parties but have not necessarily alluded to all the evidence and testimony in this decision. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

Issues to be decided

Is the tenant entitled to a monetary order for compensation? Has the tenant established that the landlord harassed him during the last four years of tenancy?

Background and Evidence

The tenancy started on October 01, 2007. The accommodation is subsidised housing and is allotted and rented based on a tenant's income and family size. The tenant's portion of the rent is \$328.00.

The tenant testified that he has paid over \$30,000.00 in rent to the landlord through his tenancy of over six years at the rate of approximately \$13.00 per day. The tenant further testified that for the last four years of tenancy, the landlord has singled him out and harassed him with unfounded allegations and threats. The tenant estimates that he is entitled to \$1.00 per day as compensation for the resulting loss of quiet enjoyment for a total of \$1,480.00.

The landlord stated that the complex has 750 units and management of this complex does not involve singling out any tenant for the purpose of harassment.

The tenant described incidents where he felt harassed and threatened.

May 2010

The landlord served the tenant with a notice regarding leaving his front door ajar which caused cigarette smoke from his unit to waft into common areas. The letter consisted of wording describing the consequences of non compliance and also mentioned that it was in contravention of the fire code.

The tenant stated that references to the fire code and consequences of non compliance were made for the sole purpose of threatening the tenant. The tenant stated that leaving the door ajar is not a contravention of the Fire Act. The landlord filed a copy of a letter from the fire prevention officer that specifically mentions that doors to the rental units must be kept shut at all times for fire safety reasons.

July 2010

The tenant stated that he had placed two personal notices on the common notice board which were removed by staff. Upon complaining to the director, the matter was looked into. The director issued a letter of apology to the tenant dated July 28, 2010.

October 2010

The landlord stated that during a routine inspection of the rental unit, by maintenance personnel, an extra bed and the presence of female clothing was reported to the landlord. This indicated that there was an extra occupant inside the rental unit.

The landlord served the tenant with a notice regarding the extra occupant. The letter reminded the tenant that his tenancy and rent subsidy were in serious jeopardy and failure to correct the breach could result in the service of a notice to end tenancy.

The tenant agreed that he had had his granddaughter staying over for 3-4 days but testified that there was no reason for the landlord to refer to his tenancy being in jeopardy. The tenant stated that the landlord wrote the letter for the purpose of harassment.

The landlord testified that the notice to the tenant was not for the purpose of harassment but simply because this is subsidized housing and he was obliged to remind the tenant of the rules and regulations regarding visitors and the number of occupants of the subsidized rental unit.

June 2011

The landlord encourages tenants to do some gardening and has provided the tenants with a shed containing some gardening tools. The tenant had a disagreement with another occupant of the complex and the matter was escalated to the attention of the landlord's management staff.

The manager left a phone message for the tenant informing him that the landlord would not be getting involved with the disputes between neighbours regarding gardening tools. The tenant found the message to be rude and threatening.

August 2012

An employee of the landlord was commissioned to carry out some work in a rental unit that was in close proximity of the tenant's unit. The employee used his master key to enter the dispute rental unit without knocking on the door. Upon entering the unit he realized that he was in the wrong unit. The tenant stated that he looked "ashamed" and left.

The landlord agreed that a mistake was made and it was not in any way intentional on the part of the employee.

The tenant stated that he thinks that the landlord uses his master key to enter the rental unit when the tenant is away. The tenant was not able to cite any particular date or time of entry by the landlord, into the unit without prior notice to the tenant.

October 2013

The tenant stated that on October 29, 2013, the landlord knocked very loudly on his door which sounded like banging. The tenant stated that the landlord had the option of using the door bell but chose to bang on his door which caused noise to echo through the hallway.

The landlord agreed that he banged on the door but stated that the door is a fire door and light banging would not be heard by the tenant.

The tenant opened the door and was asked to remove tin foil from his window. The tenant stated that other tenants also had foil on their windows but were not asked to remove it.

The landlord testified that the presence of tin foil detracts from the appearance of the building and since the tenant's window faces the street he was the first tenant asked to remove the foil. Eventually all tenants were asked to remove foil off their windows.

The landlord stated that the tenant interprets the rules differently and gets offended when the landlord sends him notices regarding violations of the rules. The landlord stated that the tenant takes all communication personally and feels that he was being singled out, which is not the case. The landlord stated that efforts are made by staff not to communicate directly with the tenant unless they have to.

The tenant agreed that the last time he felt harassed was in October 2013 when the above incident involving banging on his door, occurred.

Analysis

Harassment is defined in the Dictionary of Canadian Law as "engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome". As such, what is commonly referred to as harassment of a tenant by a landlord may well constitute a breach of the covenant of quiet enjoyment. Every tenancy agreement contains an implied covenant of quiet enjoyment.

In order to prove an action for a breach of the covenant of quiet enjoyment, the tenant has to show that there has been a substantial interference with the ordinary and lawful enjoyment of the premises, by the landlord's actions that rendered the premises unfit for occupancy.

Based on the documentary evidence and oral testimony of both parties, I find that the tenant has not proven that the landlord acted in contravention of the *Residential Tenancy Act* and that the landlord singled him out for the purpose of harassing him.

I find that the landlord responded to events by notifying the tenant in writing of an alleged contravention and the consequences for non compliance. The landlord also sent a letter of apology when appropriate to do so. I find that notifying the tenant of contraventions and the consequences of non compliance does not fit the definition of harassment.

In addition, I find that the harassment as perceived by the tenant stems from incidents that occurred as far back as May 2010 the latest being October 2013 which is approximately five months prior to this hearing.

With regard to the tenant's monetary claim for compensation for the loss of quiet enjoyment, I have reviewed the submissions of both parties and I find that the relationship is stressful on both parties for different reasons. Other than the understandable angst and stress which accompanies a state of disagreement and uncertainty, the tenant did not provide compelling evidence to support his claim of compensation for harassment and loss of quiet enjoyment and therefore the tenant's claim for compensation is dismissed.

Conclusion

The tenant's application is dismissed in its entirety.

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 05, 2014

Residential Tenancy Branch

