



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Lookout Emergency Aid society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, OLC

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 - Section 67;
2. An Order for the Landlord’s compliance - Section 62.

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 compensation for the Landlord’s lack of compliance?

Background and Evidence

The tenancy started on May 12, 2012. Rent of \$375.00 is payable monthly.

The Tenant states that the Landlord has failed to act or to remove a guest of an upper tenant in the building contrary to orders contained in a previous decision. It is noted that this previous decision made January 8, 2014 (the “January 2014 Decision”) sets out the following orders made in relation to the Tenant’s complaint of disturbance:

- a. The tenant shall immediately contact the landlord when he has been unreasonably disturbed by someone in the suite above him.
- b. The landlord shall immediately investigate the tenant’s complaints.

- c. If it turns out that the person causing the disturbance is a person who has no right to be in the rental unit the landlord shall take steps to have that person removed.
- d. If it turns out that the person causing the disturbance is a person who is the tenant of the rental unit the landlord shall take steps to prevent further disturbances.

The Tenant states that since these orders were made, he has been subjected to daily noise, such as banging, yelling and screaming, from the upper unit guest. The Tenant states that this person also hangs outside his unit door and the Tenant provided a description of this person observed through the peep hole of the door. The Tenant states that he has not informed the Landlord of these occurrences but that he has made a number of complaints prior to the last hearing. The Tenant claims compensation of \$3,375.00 representing the rent paid for the nine months he has lived in this particular unit in the building. The Tenant also claims an order that the Landlord comply with the Act to provide him quiet enjoyment of the unit.

The Landlord confirms that the Tenant has not reported any disturbances since the last hearing. The Landlord states that there is no guest in the upper unit, that this unit is checked monthly and that only the registered tenant occupies the upper unit. The Landlord states that they have not received complaints from any other tenant about this upper unit.

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. As the Tenant did not inform the Landlord of any occurrences that may have disturbed him since the January 2014 Decision and orders, I find that the Tenant has

not shown that the Landlord has failed to act or has acted negligently in response to the Tenant's reports of disturbance. Correspondingly, I find that the Tenant has failed to show that the Landlord is not complying with the orders made in the January 2014 decision. I therefore dismiss the Tenant's application with leave to reapply if the Tenant experiences disturbances in the future, if the Tenant complies with the orders in relation to reporting the disturbances and if the Landlord subsequently fails to comply with the orders.

Conclusion

The application is dismissed with leave to reapply.

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: April 16, 2014

Residential Tenancy Branch

