



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, RP, O

Introduction

This hearing was convened by way of a telephone conference call in response to an Application for Dispute Resolution (the “Application”) made by the Tenant for: repairs to the rental unit; for the Landlord to comply with the Act, regulation or tenancy agreement; for money owed or compensation for damage or loss under the *Residential Tenancy Act* (the “Act”), regulation or tenancy agreement; and, for ‘Other’ issues, namely a request to move to a different rental suite in the same rental complex.

An agent for the Landlord and the building manager appeared for the hearing and provided affirmed testimony during the hearing; the regional manager of the company also appeared for the hearing but did not provide any testimony or evidence. The Tenant appeared for the hearing with his daughter as a witness, both of whom provided affirmed testimony during the hearing.

No issues in relation to the service of the hearing documents were raised by the parties and I am satisfied that the Tenant served the Landlord in accordance with the Act.

The Tenant provided 3 pages of documentary evidence prior to the hearing, a copy of which was not served to the Landlord before this hearing. As a result, I have not considered the Tenant’s documentary evidence as this was not served to the Landlord in accordance with the Rules of Procedure.

The Tenant claimed that he did not receive the Landlord’s evidence until the date of this hearing. However, the Landlord testified and provided documentary evidence which shows that the Tenant was served with the written evidence by registered mail on March 12, 2014 and by posting it to the Tenant’s door on March 18, 2014. Section 90 of the Act states that a document served by mail is deemed to be received 5 days after it is mailed. As a result, I find that the Landlord served the Tenant with their evidence which is deemed to have been received by the Tenant on March 17, 2014 and that this was done in accordance with the Rules of Procedure.

I have reviewed the evidence and testimony before me that met the requirements of the Rules of Procedure; however, I refer only to the relevant facts and issues in this decision.

Issue(s) to be Decided

- Is the Tenant entitled to monetary compensation for power washing outside of the rental suite?
- Has there been a breach of the Act regulation or tenancy agreement that the Landlord needs to comply with?
- Does the Landlord need to make repairs to the rental suite?
- Is the Landlord required to move the Tenant to another rental suite?

Background and Evidence

The Landlord and Tenant signed a periodic tenancy agreement for rent geared to income housing on October 30, 2013 due to start on November 15, 2013. However, the Tenant was allowed to move in earlier on October 30, 2013. The Tenant's current monthly rent portion is \$529.00 payable to the Landlord on the first day of each month.

The Tenant testified that he was forced to move into this rental suite by the Landlord and upon moving in the rental suite it had not been cleaned properly. The Tenant testified that he had pressure wash the exterior 3 sides of the townhome rental suite at a cost of \$200.00 which he now claims from the Landlord. The Tenant also claims that the Landlord has failed to provide him and his children with adequate heat and as a result, they are suffering from medical problems.

The Tenant claims that he was forced to sign the tenancy agreement without seeing the rental suite and now claims that the Landlord failed to provide him with a new fridge and stove and clean closets. The Tenant claimed that the Landlords placed him in a rental suite next to a road where he and his family are being disturbed by the noise of constant traffic.

The Tenant's daughter appeared for the hearing and testified that the rental suite was cold and that the cars outside were causing them disturbance.

The witness also testified that they had experienced racial abuse from the building manager and loud noises from partying coming from his unit. On further questioning, it became apparent that this testimony related to the Tenants' experience in the previous tenancy with the same Landlords.

The Landlord's agent testified that a dispute resolution hearing had taken place on October 10, 2013 between the parties regarding the previous tenancy for a different rental suite. In this hearing the Tenant had made against the Landlord, the parties decided that due to the tensions between them, the Tenant would move to the rental suite which is now subject to this Application. The decision and order issued as a result of this previous hearing was provided as evidence and shows that the tenancy for the previous rental suite was ended and the Tenant would be moved to this rental suite named in this Application.

The Landlord's agent testified that the policy of the organisation is to follow strict protocols in getting a rental suite ready before it is occupied by a Tenant. The Landlord provided work orders to support her testimony of the work that had been done to the rental suite prior to the Tenant moving in. This included cleaning of the rental suite including the fridge and the closets, replacing the sink side countertop, new flooring, new taps in the kitchen sink, a new dining room light fixture and tub re-glazing, all of which amounted to over \$5000.00 worth of repairs.

The Landlord further testified that the stove and fridge were replaced in the latter half 2004 and are in good working condition. Furthermore, the Landlord testified that on October 30, 2013 the Tenant signed the move in condition inspection report which shows that the unit was cleaned and documented the repairs that had been completed before the Tenant took up occupancy. The Tenant did not indicate any of the issues testified to above on the condition inspection report and no mention of the repairs claimed above during the two weeks he was allowed to move in early.

In relation to the power washing of the exterior, the Landlord's agent testified that the Tenant is not allowed to do any power washing outside the rental suite as this is the responsibility of the Landlord and they had not received any written request from the Tenant with regards to the need for such cleaning.

The Landlord's agent testified that the Tenant's complaints of repairs to the rental suite have been promptly handled by the building manager. The building manager testified that the only complaints made by the Tenant were to do which a faulty bulb which was replaced and the heat furnace. The building manager testified that furnace was repaired in response to a complaint from the Tenant on November 20, 2013 and provided the work order number for this repair. However, the problems continued and the Landlord promptly called a contractor to look at the furnace on December 11, 2013 at which point the Landlord spent \$889.68 to fix the issue.

The Landlord's agent testified that the Tenant has not made any further requests for repairs to the rental suite since the furnace was fixed last year until the claims made in his Application.

The Tenant acknowledged that currently there is no problem with the heat but states that he has to have it on all day and is paying high utility bills. The Landlord's agent testified that the Tenant is responsible for their own utilities and receives a utility subsidy.

The Tenant states that he wants to move to another rental suite because of the noise issues coming from the busy road outside of the rental suite. The Landlord stated that they have accommodated the Tenant moving from his previous rental suite once already at a significant cost to them and have no intention of doing this again. However, the Landlord would be willing to work with the Tenant in ending the tenancy if the Tenant feels that the rental suite is not working for the Tenant.

Analysis

I have examined all the evidence presented for this case and I make the following findings based on the balance of probabilities.

The Tenant claims monetary compensation for power washing he had completed by a company for the exterior of the rental suite. The Tenant provided insufficient evidence of the condition of the exterior building that gave cause for him have it power washed. The Tenant is not responsible for the maintenance of the exterior of the rental suite and if the Tenant feels that there is an issue that needs to be taken care of by the Landlord, this work should have been brought to the attention of the Landlord or using the remedies available to the Tenant under the Act. Therefore, the Tenant has failed to establish a monetary claim against the Landlord.

The Tenant states that the Landlord is not complying with the Act in getting repairs and cleaning done to the rental suite. However, the Tenant has not disclosed sufficient evidence of actual repairs which are required to the suite for which the Landlord has failed to deal with. In contrast, the Landlord provided supporting evidence to show that the Landlord had completed repairs and cleaning of the rental suite before the tenancy began and this is further corroborated by the move in Condition Inspection Report which shows no issues with the cleaning or repairs; furthermore, it contradicts the Tenant's testimony of his claim that he was forced to sign the tenancy agreement before seeing the rental suite as they were both completed on the same date.

Therefore, the Tenant has failed to disclose sufficient evidence that the Landlord is not complying with the Act and has failed to do any repairs as the Landlord has provided sufficient evidence to show that all repairs requested by the Tenant since the start of the tenancy were attended to in an expeditious manner that complied with the Act.

The Tenant claims that he wants to move to another rental suite because of the noise coming from the busy road which was supported by his daughter's testimony and that his utility bills for the rental suite are very high. However, the Tenant is responsible for his utilities and had two weeks before the tenancy started in accordance with the signed agreement to inform the Landlord with any issues associated with the tenancy, none of which were disclosed to the Landlord. I find that the traffic noise is outside of the Landlord's control and this alone is not sufficient for me to order that this tenancy end and the Tenant be moved to a different rental suite.

However, the Landlord indicated that they are willing to explore an end of this tenancy if the Tenant feels that the rental suite is not suited to his needs by mutual agreement, but this would not involve the Tenant being relocated.

Conclusion

For the above reasons, I dismiss the Tenant's Application without leave to re-apply.

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 01, 2014

Residential Tenancy Branch

