



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NACEL PROPERTIES LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

MT, CNC, MNDC

Introduction

This hearing was convened in response to an application by the tenant to be allowed more time to file an application to cancel a Notice to End Tenancy for Cause; to cancel a Notice to End Tenancy for Cause, for repairs, and for a Monetary Order for harassment and purportedly for loss of quiet enjoyment.

Both parties attended the hearing and provided their testimony. The landlord acknowledged receiving the tenant's evidence.

Preliminary Matters

The tenant applied for more time to make their application to cancel the Notice. The parties strongly disagreed in respect to when the Notice to End was given to the tenant, by a margin of 3 weeks. Regardless, the parties agreed that the tenants were served an Order of Possession on April 23, 2014 effective 2 days from the day of service. The tenant applied for Review and on April 29, 2014 the original Decision and Order were confirmed. Effectively, **the tenancy has now ended**, but the tenant has not vacated, and unless the parties come to agreement respecting the tenant's occupation of the rental unit, it is available to the landlord to enforce the valid Order of Possession. Effectively, I find that the matter of the Notice to End for Cause is moot as it is *res judicata*, or already has been determined in the appropriate forum. I **dismiss** the tenant's application to cancel the Notice to End, and I further **dismiss** the tenant's application for repairs, as the tenancy has ended.

Issues(s) to be Decided

Is the Tenant entitled to a Monetary Order?

Background and Evidence

The tenant claims that since the outset of the tenancy the landlord has bullied them and harassed them, causing them stress, loss of wages, depression, sleeplessness and loss of quiet enjoyment. In respect to this claim the tenant provided no document evidence of relevance to support the issues described. The tenant's document evidence focused on those matters preliminarily dismissed. All of the tenant's testimony was strongly disputed by the landlord. It must be noted that the tenant and landlord in this hearing agreed *only* on the date the tenant received the Order of Possession dated April 23, 2014. The balance of all other testimony from either party was disagreement.

Analysis

The party making a claim bears the burden of proving their claim, on balance of probabilities. On preponderance of the evidence I find that the tenant has not provided sufficient evidence to support an application for compensation nor a Monetary Order. I note that the tenant has not advanced any document evidence to support such a claim so as to allow the landlord to respond to it. Therefore, I find the landlord is not prejudiced by the event of the tenant possibly making a new application in this regard. As a result, **I dismiss** the tenant's application in its entirety, with leave to reapply if the tenant can meet the test of sufficient evidence for a compensable monetary claim.

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: May 21, 2014

Residential Tenancy Branch

