



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0588848 B.C. LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, FF, O

Introduction

This hearing was convened by way of conference call in response to the tenant's application for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; other issues; and to recover the filing fee from the landlord for the cost of this application.

The tenant and landlord's agents attended the conference call hearing, gave sworn testimony and were given the opportunity to cross examine each other on their evidence. The landlord and tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The parties confirmed receipt of evidence. All evidence and testimony of the parties has been reviewed and are considered in this decision.

The parties advised that the landlord's name on the application omitted B.C. Ltd. as submitted by the Tenant. The parties have made no objections and I order that the application be amended to reflect the proper identification of the landlord.

Issue(s) to be Decided

- Is the tenant entitled to a Monetary Order for money owed or compensation for damage or loss?
- What are the tenants other issues to be considered?

Background and Evidence

The parties agreed that this tenancy started on May 01, 1998 for a month to month tenancy. Rent for this unit is \$671.00 per month due on the 1st of each month.

The tenant testified that on June 18, 2014 the landlord posted a notice of entry to the tenants door that informed the tenant that the landlord/agent will be entering the tenant's unit on June 19, 2014 for the purpose of determining if the tenant has pets in the unit, to inspect hoarding in the unit, to inspect for cleanliness in the unit and for odour in the unit. The tenant testified that the landlord's agent arrived at the unit and the tenant allowed them entry. They spoke briefly and then WG took out a camera and said he was going to take pictures of the unit. The tenant testified that there was no mention of the landlord's agent taking photographs on the notice of entry and the landlord cannot take photographs without the tenant's permission. The tenant testified that she felt this was an invasion of her privacy and right to quiet enjoyment of her unit. The tenant testified that despite her telling the landlord not to do so, the landlord walked around the unit and took pictures of each room. The tenant testified that this was very invasive and the tenant felt violated. The tenant seeks compensation for this loss of quiet enjoyment of \$3,000.00 and seeks an order for the landlord to return all the pictures and any copies made. The tenant requested that any monetary award is deducted from the tenant's rent.

The landlord' agent WG disputed the tenant's claim. WG testified that the tenant's unit is a health hazard and at a previous hearing it was indicated that the landlord did not have enough independent evidence to support his claim that the tenant's unit was a health hazard or that the tenant had unauthorised pets. WG testified that they are having a health inspector come to look at the tenant's unit to determine the condition of the unit in order to obtain independent evidence. WG testified that taking photographs of the tenant's unit is not a violation of her right to quiet enjoyment and the photographs are needed to show the health inspector and needed as evidence for another hearing after the landlord has served the tenant with another One Month Notice to End Tenancy for

Cause. WG testified that at present the only persons who have seen the photographs are WG and their lawyer.

The tenant testified that after WG had taken the photographs WG and the tenant discussed the tenant's unit and WG had said he had found little evidence for uncleanliness or hoarding. The landlord did know about the tenant's cats and at a previous hearing it was determined that the tenant could keep the cats as the landlord had known about them for the last 14 years. The tenant disputed that she is a hoarder and testified that there is clear space to walk around the unit. The tenant also testified that she keeps the unit reasonably clean and vacuums and cleans her carpets. The tenant testified that there is no odour in the unit as the tenant keeps a window open to alleviate any cat odour and the tenant regularly cleans out the cat litter box.

The tenant testified that the parties have another hearing pending for a rent increase and the tenant feels this is the real reason the landlord wants to evict the tenant to charge a higher rent for the unit.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties. When a landlord is attempting to gather evidence for a hearing a landlord is entitled to obtain photographic evidence showing the condition of a tenant's rental unit as long as the landlord has provided the tenant with proper notice of entry. The tenant argued that this notice of entry did not mention that the landlord was going to take photographs; however, there is no provision under the *Act* which states that a landlord is not entitled to do so.

The tenant's claim for a loss of quiet enjoyment appears to stem more from the repeated notices the landlord has served upon the tenant. A landlord is entitled to pursue action against the tenant by serving notices of entry and eviction Notices if the landlord chooses to do so.

The tenant claims that the landlord's actions violated the tenant's privacy and right to quiet enjoyment. I refer the parties to s. 28 of the *Act* which states:

28 *A tenant is entitled to quiet enjoyment including, but not limited to, rights to the following:*

(a) reasonable privacy;

(b) freedom from unreasonable disturbance;

(c) exclusive possession of the rental unit subject only to the landlord's right to enter the rental unit in accordance with section 29 [landlord's right to enter rental unit restricted];

(d) use of common areas for reasonable and lawful purposes, free from significant interference.

I find no grounds under this section of the *Act* to award the tenant compensation for a loss of quiet enjoyment of the rental unit. This section of the tenant's claim is therefore denied.

As the tenant's claim has no merit the tenant must bear the cost of her filing fee.

Conclusion

The tenant's claim is dismissed in its entirety without 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: November 25, 2014

Residential Tenancy Branch

