



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CROSSROADS ENTERPRISES LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, OLC, FF

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by the Tenant for money owed or compensation for damage or loss under the *Residential Tenancy Act* (the “Act”), for the Landlord to comply with the Act, and to recover the filing fee from the Landlord.

An agent for the Landlord (the “Landlord”) and the Tenant appeared for the hearing and provided affirmed testimony. The Landlord confirmed receipt of the Tenant’s Application and documentary evidence by registered mail.

The Landlord explained that she had faxed documentary evidence to the Residential Tenancy Branch one day prior to this hearing; this evidence was not before me in the file. The Tenant testified that he also had not received the Landlord’s documentary evidence.

The Rules of Procedure outline strict time limits for the service of evidence to both the Residential Tenancy Branch and to the other party prior to the hearing taking place. The Landlord explained that she was not aware of these provisions. As a result, I was unable to consider the Landlord’s documentary evidence as it had not been served in accordance with the Rules of Procedure.

The parties were informed of the instructions for the conduct of the proceedings and no questions were raised about the process. The parties were both given an opportunity to present their evidence, make submissions to me, and cross examine each other on the evidence provided.

The Tenant explained that he was experiencing difficulties with the upstairs renter in his residential building. The Tenant testified that he had notified the Landlord about these issues both verbally and in writing from the onset of the tenancy. However, despite a significant period of time elapsing, the Landlord had failed to properly deal with the issues through a notice to end tenancy. As a result, the Tenant makes a monetary claim for loss of enjoyment of his rental suite for \$4,950.00.

The Landlord acknowledged the Tenant's verbal and written complaints and testified that she had spoken to the upstairs renter about excessive noise, littering the Tenant's balcony with cigarette butts and garbage, and the smoking of marijuana. The Landlord explained that the upstairs renter denied the noise but apologised for the cigarette butts littering the Tenant's balcony and stated that she had taken steps to deal with the Tenant's complaints.

After the parties had given all of their evidence, I invited the parties to resolve the issues on the Tenant's Application through a settlement agreement. The parties discussed the issues between them, turned their minds to compromise and achieved a resolution of the dispute based on the following terms.

Analysis & Conclusion

Pursuant to section 63 of the Act, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. Both parties agreed to settle the Tenant's application in full under the following terms:

1. The Landlord agreed the Tenant can deduct \$370.00 (inclusive of the filing fee) from his March 2015 rent. As a result, the Tenant will pay the Landlord \$270.00 on March 1, 2015. The Tenant is to attach a copy of this decision when paying March 2015 rent so that the Landlord is informed of the reasons for the reduced amount.
2. The Tenant agreed that he would collect additional and more conclusive evidence of the disturbances caused by the upstairs renter if they continue and provide these to the Landlord for action.
3. The Landlord agreed that she would deal with any disturbances with the upstairs renter using remedies available under the Act, such as a written breach letter or a notice to end tenancy.

The hearing concluded and both parties understood their obligations under the Act and in relation to the above terms of agreement outlined in this decision.

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: February 19, 2015

Residential Tenancy Branch

