



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Broadway Developments Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, O

Introduction

This was a hearing with respect to the tenant's application for a monetary award. The hearing was conducted by conference call. The tenant and the landlord's representatives called in and participate in the hearing. The parties exchanged documentary evidence prior to the hearing.

Issue(s) to be Decided

Is the tenant entitled to a monetary award and if so, in what amount

Background and Evidence

The applicant testified that he saw an advertisement for an apartment rental and attended at the landlord's rental property. The tenant completed the landlord's application for tenancy. He said that the landlord's representative contacted him on September 10, 2014 and invited him to rent a two bedroom apartment in the rental property at a monthly rent of \$1,050.00 per month for a 12 month fixed term. The tenant said that he met with the landlord's representative and brought with him \$525.00 cash as a security deposit. The tenant testified that the landlord's representative, Mr. D.C. prepared a receipt for the deposit and the tenant and the landlord's representative both signed a tenancy agreement.

The tenant testified that after the agreement was signed, the tenant disclosed that he intended to carry on his hobby of home brewing beer in the rental unit. According to the tenant, the landlord's representative was uncomfortable with his proposed use because of concerns that it could cause damage to the building or disturb other tenants. The tenant said that he attempted to discuss compromises with the landlord's representative. In his written submission the tenant stated that: "(name of landlord's representative) insisted that he would not rent to me unless we added to already signed lease an additional clause forbidding brewing in the unit. He prepared this clause as an

additional sheet to be appended to the lease, however I declined to accept it and asked that we follow the original lease.” The tenant said that the landlord’s representative would not agree and refused to accept the deposit. The tenant left the meeting without a copy of the lease.

The tenant has claimed a monetary award in the amount of two months’ rent. He submitted that there was a completed tenancy agreement and the landlord’s refusal to honour the agreement is tantamount to an eviction without cause. He submitted that the eviction is analogous to a landlord issuing an improper Notice to End Tenancy for landlord’s use and that it should attract an equivalent penalty amounting to two months’ rent under the tenancy agreement. The tenant did not apply for an order for possession of the rental unit and he has not provided any evidence of loss or expense incurred as a result of the landlord’s alleged refusal to honour the tenancy agreement.

The landlord’s representative gave a significantly different version of events. He said that the tenant viewed the rental unit and then submitted an application form. The landlord’s representative contacted the tenant to meet him and discuss his application in person. The landlord’s representative denied that a tenancy agreement was ever presented to the applicant or signed by either party. He said that the purpose of the meeting was to meet and assess the tenant. He said that it had not been determined whether the landlord was prepared to rent to the tenant. The landlord’s representative said that the tenant mentioned his plans to pursue his hobby of brewing beer. The landlord’s representative asked questions about the practice of brewing beer and had his colleague join the meeting. The landlord’s representative said the tenant became somewhat irate during the discussion when the landlord’s representative expressed concerns about brewing beer in the apartment. The landlord’s representative said that the tenant said the tenant at one point volunteered that he would agree not to brew beer in the apartment. He said that when he began to formulate the wording for an addendum to a tenancy agreement the tenant again became angry and commented that it appeared that they did not want to rent to him. The tenant took back his deposit money, stated that he was no longer interested in renting from the landlord and left the meeting. Later the parties exchanged e-mails. The tenant reiterated his desire to rent and the landlord declined to rent to him.

Analysis

The tenant has claimed a sum as damages for what he claimed was a breach of a binding tenancy agreement. Upon the evidence presented, I am not satisfied on a balance of probabilities that a final form of tenancy agreement was ever agreed upon by the parties, but even if there was a concluded tenancy agreement, I find that the tenant

has not proved that he suffered actual damages as a result of the alleged breach. The tenant did not show that he incurred any costs or was forced to rent other accommodations at a higher rent and he did not seek an order for possession to enforce the landlord's obligations under an alleged tenancy agreement. I do not find that the provisions of section 51(3) of the *Residential Tenancy Act*, which is a penalty provision related to a landlord's failure to use a rental unit for the purpose stated in a Notice to End Tenancy for landlord's use, has any application to the present circumstances. I therefore find that the tenant has not proved that he is entitled to a monetary award in the amount claimed or in any lesser amount.

Conclusion

The tenant's application for a monetary award is dismissed 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: April 22, 2015

Residential Tenancy Branch

