



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

A hearing was conducted by conference call in the presence of the tenant applicant and in the absence of the respondent although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the landlord on April 16, 2015. I find that the Amended Application for Dispute Resolution/Notice of Hearing was sufficiently served on the respondent landlord by mailing by registered mail to where the landlord resides on May 14, 2015. The applicant testified that a search of the Canada Post Tracking service indicates the documents were picked up on May 19, 2015. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided:

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling a one month Notice to End Tenancy dated April 15, 2015?
- b. Whether the tenant is entitled to a tenant Order for Possession?
- c. Whether the tenant is entitled to a monetary order and if so how much?

Background and Evidence

The landlord is the mother of the applicant. The landlord and her brother rented a 3 bedroom house from an agent for the owner. It was anticipated that the landlord, the applicant and her son would live upstairs and the brother would live downstairs.

The tenancy between the applicant and the respondent began on September 15, 2014. The applicant paid the respondent rent of \$600 per month payable in advance on the first day of

each month. The tenant paid a security deposit of \$300 to the landlord. On February 1, 2015 the rent was increased to \$615 per month. The tenancy agreement is not in writing. Since October 2014 the applicant and her son have spent considerable time overnighing at her boyfriend's residence.

The tenancy has become dysfunctional particulars of which are as follows:

- In late March the tenant and respondent got into a major argument over yard work. The tenancy has deteriorated significantly since then.
- On April 3, 2015 the applicant returned home to see that the landlord had thrown out her bed, dresser, bookshelf, son's play table etc. These goods were damaged by the weather and had to be disposed of.
- On April 11, 2015 the landlord served a notice to vacate threatening the tenant that the Sheriff would be called if she did not remove her belongings by May 15, 2015.
- On April 16, 2015 the landlord served a one month Notice to End Tenancy that set the end of tenancy for May 31, 2015.
- At the end of April the tenant attempted to pay the rent for May but the landlord refused.
- The tenant returned home on May 3, 2015 to discover the landlord had removed her belongings and put them in the overhang. The landlord changed the locks thereby preventing the tenant from gaining access.
- On many occasions the landlord has been intoxicated and belligerent and the landlord has harassed the tenant..
- During the course of the month of April the police have been called several times.
- On one occasion the landlord stalked the tenant and on another occasion the landlord physically assaulted the tenant.
- The tenant was forced to move her belongings to a storage area. She ended up staying with her boyfriend. She produced a receipt indicating she paid rent of \$500 for May.

Application to cancel the one Month Notice to End Tenancy and the tenant's Application for a Tenant's Order for Possession:

The tenancy has become dysfunctional. The tenant stated that she did not wish to remain in the rental unit. As a result she stated she wished to withdraw her claim to cancel the One Month Notice to End Tenancy and the tenant's application for a Tenant's Order for Possession. I ordered that those claim be dismissed as withdrawn.

Tenant's Application for a Monetary Order:

Analysis

I determined the landlord conduct is illegal and contrary to the Residential Tenancy Act when the landlord did the following:

- Removed the tenant's belongings and put them out in the weather in early April.
- Changed the locks and removed the tenant's belongings in early May.

The law does not permit the landlord to act in this manner.

I determined the landlord breached a material term of the tenancy by changing the locks and denying the tenant access to the rental unit. As a result the landlord is disentitled to recover the rent for May 2015.

I further determined the landlord has breached the covenant of quiet enjoyment during the month of April by harassing, arguing and assaulting the tenant.

With respect to each of the tenant's claims I find as follows:

- a. The tenant claimed the sum of \$615 for breach of the covenant of quiet enjoyment for April 2015. I am satisfied that the landlord's actions were illegal and contrary to the Act. However, the tenant did receive some benefit as she spent some nights there and her belongings remained in the rental unit. I determined the tenant is entitled to \$450 of this claim.
- b. I determined the tenant is entitled to the sum of \$60 for the cost of babysitting on May 4, 2015 and May 5, 2015 while she moved her belongings to a storage facility after they were illegally removed by the landlord.
- c. I determined the tenant is entitled to the sum of \$41.06 for the cost of storing her belongings at the public storage facility.
- d. The tenant claimed the sum of \$500 for the cost of rent paid to her boyfriend for May. I have previously determined the tenant is not obliged to pay the rent for the rental unit for May as she has been locked out. The rent paid to her boyfriend is less than what she would have paid in the rental unit. However, consideration must be given to the

disruption caused because of the nature of the move (belongings left outside), the discomfort and inconvenience caused by putting some of her belongings in storage etc. In the circumstance I determined the tenant is entitled to \$250 of this claim.

Monetary Order and Cost of Filing fee

I ordered the landlord(s) to pay to the tenant the sum of \$801.06.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

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: June 01, 2015

Residential Tenancy Branch

