



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RPP, PSF, OLC, LRE, MNDC, FF

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the landlord on May 20, 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 that the landlord comply with the Residential Tenancy Act and tenancy agreement?
- b. Whether the tenant is entitled to an order that the landlord return personal property to the tenant?
- c. Whether the tenant is entitled to an order that the locks be changed?
- d. Whether the tenant is entitled to an order suspending or setting conditions on the landlord's right to enter the rental unit
- e. Whether the tenant is entitled to a monetary order?
- f. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence

The tenancy began on July 17, 2014. The tenancy agreement provides for a term of at least 12 months. The rent is \$600 per month. The tenant(s) paid a security deposit of \$300 at the start of the tenancy.

The tenant seeks remedies under the Residential Tenancy Act based on the following:

- The tenant testified that the representatives of the landlord are extremely disrespectful.
- He testified he is 76 years of age. The landlord has threatened and harassed him.
- In particular the landlord has demanded access to the rental unit without following the required procedures. The landlord failed to provide individual notices of inspection. Instead the landlord posted notices in the elevator, bulletin boards and near the post boxes. The tenant submits this is not sufficient.
- On May 19, 2015 the landlord attempted to gain access to the rental unit without providing proper notice. An altercation ensued in which the landlord yelled and harassed him and grabbed a notice from his hand..
- The tenant previously had a telephone conversation with PB where PB told him that the landlord had the right to access his rental unit at any time.
- The tenant further advised the landlord of a problem with noise coming from the upstairs unit where the upstairs tenant was dropping a chair on the floor.
- The tenant complained of the procedure used by the landlord last Christmas in requiring tenants to sign acknowledging receipt of a \$25 food voucher.

The landlords dispute much of the tenant's testimony. In particular the landlords testified as follows:

- There are 79 units in the rental property. It is approximately 40 years old.
- The landlord normally give inspection notices at least two weeks prior to the date of inspection by placing the notices in the elevator and on the bulletin boards and by the post boxes. This is the first time anyone has complained.
- The upstairs tenant was not dropping furniture as alleged by the tenant. However, the neighbour of the upstairs tenant is a young person who is schizophrenic and was using weights for fitness training. The landlord testified he was dropping the weights. The landlord has talked to him. The tenant acknowledged that the noise problem has improved significantly.

- The landlord denies harassing or being aggressive to the tenant. They testified they left when told to by the tenant. They further testified the tenant was aggressive to them. .

Application for an order that the landlord comply with the Residential Tenancy Act and tenancy agreement - Analysis

Section 29 of the Residential Tenancy Act provides as follows:

Landlord's right to enter rental unit restricted

29 (1) A landlord must not enter a rental unit that is subject to a tenancy agreement for any purpose unless one of the following applies:

(a) the tenant gives permission at the time of the entry or not more than 30 days before the entry;

(b) at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes the following information:

(i) the purpose for entering, which must be reasonable;

(ii) the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees;

(c) the landlord provides housekeeping or related services under the terms of a written tenancy agreement and the entry is for that purpose and in accordance with those terms;

(d) the landlord has an order of the director authorizing the entry;

(e) the tenant has abandoned the rental unit;

(f) an emergency exists and the entry is necessary to protect life or property.

(2) A landlord may inspect a rental unit monthly in accordance with subsection (1) (b).

The landlord failed to give the tenant proper notice of the inspection as required under section 29 of the Residential Tenancy Act. The Act requires that the tenant be given written notice. I determined that a group notice is not sufficient. **As a result I ordered that the**

landlord comply with section 29 of the Residential Tenancy Act by giving proper notice in accordance with section 29 prior to conducting an inspection.

Application for order that the landlord return personal property to the tenant:

The tenant testified the landlord took a notice he was to intending to leave on the door that landlord's inspectors were not going to be allowed in the rental property. The landlord did not give evidence disputing this. I ordered that the landlord return this note to the tenant.

Application for an Order that the locks be changed?

I dismissed the application for an order that the locks be changed. The landlords gave a notice of entry to all residents. While the applicant has the right to require an individual notice in accordance with section 29 of the Act there is insufficient evidence that the landlord is accessing the rental unit without the tenant knowing about it. The tenant was aware of the inspection of May 19, 2015 as he had a notice to give the landlord.

Application for an order suspending or setting conditions on the landlord's right to enter the rental unit?

I determined it was not necessary to make an order other the order previously made that the landlord comply with section 29 of the Residential Tenancy Act by giving proper notice.

Application for a monetary Order:

The tenant sought a monetary order in the sum of \$100 as a symbolic order for the disrespectful manner in which he has been treated. After hearing the disputed evidence of the parties I determined the evidence of the landlord that the thumping was caused by the adjacent tenant using his weights is more likely that it being caused by the upstairs tenant dropping furniture. The tenant failed to prove he is entitled to compensation for this complaint. However, I am satisfied the tenant is entitled to compensation in the sum of \$50 as nominal damages for the failure to give proper notice prior to doing an inspection. The tenant did not pay a filing fee and as a result there is no order with respect to the recovery of the filing fee.

Conclusion

I ordered the landlord(s) to pay to the tenant the sum of \$50 such sum may be deducted from future rent.

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: July 06, 2015

Residential Tenancy Branch

