



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC OLC O

Introduction

This hearing dealt with the tenant's application for monetary compensation and an order that the landlord comply with the Act. The tenant and two agents for the landlord participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give affirmed testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is the tenant entitled to monetary compensation as claimed?
Should I order the landlord to comply with the Act?

Background and Evidence

The tenancy began on September 1, 2015, with monthly rent of \$1,300.00. The rental unit is one of four rental units in a house.

Tenant's Evidence

The tenant stated that since the outset of the tenancy she and her two daughters have suffered a loss of quiet enjoyment due to a tenant occupying the unit below hers. The tenant stated that the tenant and her guests are smoking day and night, and she cannot sleep well at night or enjoy fresh air in the morning because of the smell of cigarette smoke. She stated that she and her daughters are concerned about their health as a result.

The tenant stated that the other tenant was also causing other disturbances that deprived her of quiet enjoyment. The tenant stated that the other tenant has frequent male visitors who sit between the driveway and the entranceway and drink, smoke and stare at the tenant and her daughters. The tenant stated that they feel intimidated when this occurs. The tenant stated that at least once a week the other tenant has loud parties until late at night or early in the morning, and the tenant can hear foul language, music and yelling. The tenant stated that the other tenant leaves garbage in the shared lawn, driveway and entrance areas, which is attracting wild animals and is unsanitary and unsafe.

The tenant stated that she made several verbal complaints, but the landlord ignored or delayed 90 percent of the problems. In a letter that the tenant served on the landlord on October 11, 2015, she described all of these issues and requested the landlord's assistance to resolve the matter. The tenant stated that the problems are still ongoing, and she and her daughters feel that the landlord has been ignoring them.

The tenant applied for \$5,000.00 for loss of quiet enjoyment and an order that the landlord comply with the Act, particularly in regard to ensuring the tenant's right to quiet enjoyment.

Landlord's Response

The landlord stated that he does not ignore the tenant, and he has always responded to her concerns. When the tenant complained about the smell of cigarette smoke in her unit, for example, he sent the owner's son in to the unit the next day to check for holes and vents to prevent smoke coming up. The landlord stated that when the tenant called to complain about noise, he went there at midnight or 1:00 a.m. to investigate.

The landlord submitted evidence to show that the "problem" tenant whose behaviour is a problem was served with a notice to end tenancy for cause on November 3, 2015. The landlord stated that this tenant would be moving out of the building as of December 6, 2015.

Analysis

I find that the tenant is not entitled to monetary compensation, and it is not necessary for me to make an order that the landlord comply with the Act. The only clear evidence I have that the tenant made a complaint to the landlord is her letter of October 11, 2015. The tenant did not dispute that the landlord sent the owner's son to the rental unit to address verbal complaints; nor did she dispute that the landlord attended at the property

late at night to investigate the tenant's noise complaints. I am satisfied that the landlord took timely steps to evict the problem tenant and acted with due diligence to address the tenant's concerns.

As her application was not successful, the tenant is not entitled to recovery of the filing fee for the cost of her application.

Conclusion

The tenant's application is dismissed.

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: December 9, 2015

Residential Tenancy Branch

