



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, PSF, MNDC, FF

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for the Landlord to comply - Section 62;
2. An Order for the provision of services or facilities - Section 65;
3. A Monetary Order for compensation - Section 67; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlord was represented by Legal Counsel and did not attend the hearing. The Landlord provided no documentary submissions or evidence in advance of the hearing. The Tenant was given full opportunity to be heard, to present evidence and to make submissions. Legal Counsel was given opportunity to present argument. Legal Counsel acknowledged receipt of the Tenant’s evidence package.

Issue(s) to be Decided

Is the Tenant entitled to unrestricted access to the laundry facilities?

Is the Tenant entitled to heat in the unit?

Is the Tenant entitled to a parking spot in the driveway?

Is the Tenant entitled to the amount of compensation claimed?

Background and Evidence

The Tenant states that there is no written tenancy agreement. The oral terms of the tenancy are that the tenancy started in 2012. Rent of \$600.00 is payable monthly. No

security deposit was collected by the Landlord. The Tenant states that he is entitled to unrestricted access to the laundry facility, heat to the unit and one parking spot in the driveway. During the tenancy the rental unit was sold to the current Landlord. The Tenant provides a copy of an email from the original landlord in relation to the oral terms of the tenancy.

The Tenant states that in approximately August 2014 the Landlord started to turn off the laundry machines and go through the Tenant's laundry. The Tenant requested that the Landlord stop this action however it continued. Starting approximately September 2015 the Landlord would only provide heat to the unit for a couple of hours each day and would then turn the furnace off leaving the unit cold. This lasted until the spring of 2015 despite the Tenant informing the Landlord of the cold unit. During this period the Tenant would heat the unit with the stove.

As the furnace was located in the laundry area the Tenant initially turned the furnace back on however the Landlord would again turn it off. Within a short time the Landlord placed a padlock to the laundry and furnace area and thereafter the Tenant had to call the Landlord to obtain access to the laundry. The padlock was removed in approximately August 2015 however the Landlord would still interfere with the machines while the Tenant's laundry was in them, often resulting in clothes not being dried. The Tenant has not experienced any cold in the unit since making the application in November 2015.

The Tenant states that in the beginning of July 2015 the Landlord no longer allowed the Tenant to park in the driveway and insisted that the Tenant sign a mutual agreement to end the tenancy.

The Tenant claims \$9,600.00 in compensation. The Tenant seeks an order that the Landlord comply with the tenancy agreement and the provision of laundry facilities, heat and parking.

Legal Counsel argues that when the unit was purchased it was only with the condition that no rent would be increased for the first year. Legal Counsel argues that at the end of the year the tenancy agreement expired and the Tenant was no longer entitled to anything. Legal Counsel argues that if the Landlord did breach the tenancy agreement, the amount being claimed by the Tenant is excessive, is not allocated to any loss and appears to come out of thin air. As the result Legal Counsel argues that the Tenant's claim for compensation should be dismissed.

Analysis

Section 1 of the Act defines "tenancy agreement" to mean an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities. Section 1 of the Act defines "landlord" to include successors in title. Accepting the Tenant's evidence that is supported by the previous landlord's email, I find that an oral month to month tenancy agreement exists that bound the current Landlord upon purchase of the rental unit. Further based on this evidence I find that the terms of this agreement provides that the Landlord will, inter alia, provide heat to the unit, unrestricted access to laundry facilities and a parking spot on the driveway in exchange for the rent paid by the Tenant.

Section 62 of the Act provides that a landlord may be ordered to comply with the tenancy agreement. As the Landlord is no longer restricting access to the laundry and as heat is no longer being turned off I dismiss the Tenant's claim for an order for compliance in relation to the laundry and the heat. Since the Tenant has not agreed to release the parking spot for a reduction in rent, I find that the Landlord may not restrict the Tenant's access to the parking spot on the driveway and I order the Landlord to provide this parking to the Tenant immediately.

Section 7 of the Act provides that if a landlord does not comply with their tenancy agreement, the non-complying landlord must compensate the tenant for damage or loss that results. While I accept that the Tenant suffered from a loss of heat for

approximately 8 months (fall to spring 2015) and would reasonably experience discomfort but considering that the Tenant did not allocate any amount for compensation and as I find the global amount to be excessive, I find that the Tenant is only entitled to a nominal amount of **\$400.00**. I base this on \$50.00 per month for each month that the Tenant was without heat during a period when it would be reasonably expected to require heat to a unit.

For the same reasons I find that the Tenant has only substantiated a nominal amount of **\$100.00** for the undisputed loss of unrestricted access to the laundry for nearly a year which I find caused an inconvenience to the Tenant. Given the loss of parking from and including July 2015 to current and without any evidence to support extra costs for alternative parking or extra liability for on street parking, I find that the Tenant has only substantiated a nominal of \$25.00 per month for the loss of parking to and including January 2016 for a total of **\$175.00**. Should the Landlord fail to return the parking spot as ordered above, I find that the Tenant is entitled to a monthly rent reduction in the amount of \$25.00 as of February 1, 2016.

Section 28 of the Act provides that a tenant is entitled to quiet enjoyment including, but not limited to privacy and freedom from unreasonable disturbance. Accepting the Tenant's evidence of the Landlord's interference with the laundry over a year long period, I find that the Tenant has substantiated that the Landlord breached the Tenant's privacy. Given the above reasons on the amount of compensation claimed but considering the length of time for the disturbance, I find that the Tenant has substantiated a nominal award of **\$300.00** in compensation for disturbance to date.

As the Tenant's application has had merit I find that the Tenant is entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$1,025.00**. While I provide a monetary order for this amount it may be satisfied by deducting the entitlement from future rent.

Conclusion

I order the Landlord to provide the Tenant with an unobstructed parking space on the driveway.

I grant the Tenant an order under Section 67 of the Act for **\$1,025.00**. If necessary, this order may be filed in the Small Claims 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: January 15, 2016

Residential Tenancy Branch

