



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing dealt with an application by the tenant for a monetary order. Both parties participated in the conference call hearing and confirmed having received the other's evidence. The landlord was represented at the hearing by WG, who holds the landlord's power of attorney. The landlord did not participate in the hearing and the parties agreed that he suffers from dementia and his presence would not have been helpful.

Issue to be Decided

Is the tenant entitled to a monetary order as claimed?

Background and Evidence

The parties agreed that the tenancy began sometime in 2012 and that the tenant rented a self-contained suite located in the landlord's home.

The tenant is claiming \$5,400.00 but did not indicate on his application for dispute resolution what that amount represents. The tenant initially claimed that the amount was to compensate him for care services provided to the landlord as he had physical and mental limitations. When I advised the tenant that I did not have jurisdiction over the employment relationship he was describing, he said that the amount represented a loss of quiet enjoyment over the course of the tenancy. Later in the hearing, the tenant claimed that the amount represented all of the rent paid during the tenancy and stated that he was claiming that amount because he had been evicted without notice. WG testified that he was unaware from the tenant's application what the nature of the tenant's claim was.

The tenant claimed that he moved into the unit because he and the landlord had entered into an arrangement whereby the tenant would provide care services to the

landlord. The tenant claimed that the landlord required constant care and oversight and did not respect the tenant's privacy, entering the rental unit without notice. The tenant testified that the landlord was hospitalized in late 2014 and that WG, who is the landlord's stepson, told the tenant he would have to move immediately or WG would remove the tenant's belongings from the unit. The tenant stated that because he was concerned that WG would discard his belongings, he vacated the unit in late November or early December 2014.

WG testified that in addition to suffering from dementia, the landlord is an alcoholic and that the tenant and the landlord had spent much of their time drinking together during the tenancy. WG stated that when the landlord was hospitalized, he told WG that the tenant had been beating him. WG, not knowing whether the story was true or merely a figment of the landlord's imagination, told the tenant what the landlord had said and WG testified that the tenant acknowledged having hit the landlord several times. WG testified that upon hearing the tenant's admission that he had struck the landlord, WG demanded that the tenant leave immediately.

The tenant did not deny having told WG that he had hit the landlord several times.

Analysis

Section 59(2) of the Act requires a party who applies for dispute resolution to include full particulars of the dispute that is to be the subject of the proceedings. Rule 2.5 of the Dispute Resolution Rules of Procedure requires that an applicant who files a monetary claim provide a detailed calculation of that claim at the time the application is filed. In this case, the tenant did not provide full particulars or a detailed calculation of the claim in advance of the hearing and even at the hearing seemed unsure of the basis of his claim. The tenant initially claimed that he was seeking compensation for personal care services, then changed to a claim for loss of quiet enjoyment and finally a claim for having been unlawfully evicted. WG had no way of knowing the case he was supposed to meet because the tenant failed to provide details of the claim in advance of the hearing.

I find that the tenant did not comply with the requirements of the Act and did not outline in his application for dispute resolution a detailed calculation of his claim, thereby depriving the landlord of the opportunity to prepare a defence. I find that it would be administratively unfair to proceed on the merits of the claim as the landlord could not have known what the claim was about and for that reason I dismiss the claim.

However, I would have dismissed it in any event for the following reasons. If the claim was for services rendered under the terms of an employment contract (which was not

provided to me), the claim falls outside of my jurisdiction as I do not have authority to adjudicate claims related to employment contracts.

If the claim was for loss of quiet enjoyment because the landlord repeatedly entered the rental unit, the tenant through the terms of the employment contract he alleged existed agreed to provide 24 hour care to the landlord, whom he knew had dementia and could not be expected to be aware of his obligations of the landlord, and I therefore find that the tenant cannot claim for loss of quiet enjoyment when he was required through the alleged terms of his employment to interact with the landlord when required. Further, the tenant could not have expected that the landlord, with diminished mental capacity, could have appreciated his obligation to provide the tenant with exclusive occupation of the rental unit and there is no indication that the tenant complained to anyone, including WG, about the alleged infractions.

If the claim was for a wrongful eviction, it is clear on the evidence that WG wrongfully evicted the tenant. Although WG appears to have had good reason to fear for his step-father's safety, the *Residential Tenancy Act* provides that the landlord cannot evict a tenant without lawful notice pursuant to the Act. However, in order to succeed in this claim, the tenant must prove that he suffered some financial loss as a result of WG's actions. The tenant provided no evidence showing that he incurred out-of-pocket expenses for moving, temporary housing, meals or any of the other expenses that one would expect would have been incurred in such a situation. In the absence of such evidence, I find I am unable to award the tenant anything.

The tenant's claim is dismissed in its entirety.

Conclusion

The claim 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 12, 2016

Residential Tenancy Branch

