



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SELWYN [tenant name suppressed to protect privacy]

DECISION

Dispute codes MNDC OLC FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions.

Preliminary Issue – Service of Landlord's Evidence

The tenant alleged that the landlord's evidence was not received until 2 days prior the hearing date as it was sent to the rental unit address versus the PO Box address identified as the address for service in his application. The tenant agreed to proceed with the hearing after being afforded an opportunity to request an adjournment on the grounds that he needed more time to prepare a response to the landlord's evidence.

Issues

At the outset of the hearing the tenant clarified his application pertained to the following issues:

Is the tenant entitled to a monetary order for damage or loss in the amount of \$3500.00 in respect to damage to an antique table?

Should the landlord be ordered to comply with the Act, Regulation or Tenancy Agreement in respect to respecting the tenant's privacy and security and enjoyment of the rental unit without harassment?

Is the tenant entitled to a request to vary the tenancy agreement with respect to no bicycles being permitted in the building?

Is the tenant entitled to recover the filing fee for this application from the landlord?

Background

The tenant rents a suite in an apartment building. L.M. and S.M. are the property managers of the apartment building. A written tenancy agreement was entered into and signed by the parties on June 9, 2015. A copy of the written agreement was provided on file. The tenancy began on June 15, 2015 with a monthly rent of \$780.00 plus \$10.00 parking fee payable on the 1st day of each month. The tenant paid a security deposit of \$385.00 at the start of the tenancy.

Evidence & Analysis

Is the tenant entitled to a monetary order for damage or loss in the amount of \$3500.00 in respect to damage to an antique table?

The tenant's claim was in respect to damages to an antique table from a light fixture falling on it.

The landlord submitted that the owner of the building had refurbished the table in question and they were under the impression that this matter had been resolved. The landlord submits that the tenant's claim does not include any monetary order worksheet or any details of this claim.

Pursuant to section 62(4) of the Act, the director may dismiss all or part of an application for dispute resolution if the application does not disclose a dispute that may be determined under this part.

The tenant's application only indicated he was seeking a monetary order for damages in the amount of \$3500.00 without any further details of what the damages were for.

In accordance with section 62(4) of the Act, I dismiss this part of the tenant's application.

Should the landlord be ordered to comply with the Act, Regulation or Tenancy Agreement in respect to respecting the tenant's privacy and security and enjoyment of the rental unit without harassment?

The tenant was requesting that two cautionary notices issued to the tenant by the landlord be dismissed.

This aspect of the tenant's claim was dismissed as I have no jurisdiction under the Act to dismiss cautionary or warning letters issued to the tenant.

The tenant was further requesting that the landlord engage in respectful communication with the tenant. The tenant was also requesting that the landlord respect the privacy and security of the tenant by not giving out the tenant's suite # to visitors.

The landlord submitted that it was the tenant that had demonstrated disrespectful communication not the landlord. The landlord acknowledged that she mistakenly gave out the tenant's suite # on one occasion and agreed that it will not happen again in the future.

Pursuant to section 28 of the Act, a tenant is entitled to quiet enjoyment of the rental unit including but not limited to rights to the following:

- reasonable privacy;
- freedom from unreasonable disturbance;
- exclusive possession of the rental unit, subject to the landlord's rights contained in section 29; and
- use of common areas for reasonable and lawful purposes, free from significant interference.

Residential Tenancy Policy Guideline #6 "Entitlement to Quiet Enjoyment" provides the following guidance:

In order to prove a breach of the entitlement to quiet enjoyment, the tenant must show that there has been substantial interference with the ordinary and lawful enjoyment of the rental premises. This includes situations in which the landlord has directly caused the interference or was aware of the interference but failed to take reasonable steps to correct it. It is also necessary to balance the tenant's right to quiet enjoyment with the landlord's right and responsibility to maintain the premises. Temporary discomfort or inconvenience does not constitute a basis for a breach under this section.

In this case, the tenant has not provided sufficient evidence either by way of her oral testimony or written submissions to support a finding that there has been substantial interference with his ordinary and lawful enjoyment of the rental premises. Nor does the tenant appear to be making such a claim.

I make no finding or orders with respect to the tenant's request that the landlord engage in respectful communication. Outside of the alleged conduct being so severe that it amounts to a substantial interference with the ordinary and lawful enjoyment of the rental premises, I have no authority under the Act to make such findings or orders.

Similarly, with respect to the tenant's claim that the landlord respects his privacy and security by not giving out his suite # to visitors, the tenant does not appear to be making a claim that there has been substantial interference with his ordinary and lawful enjoyment of the rental premises. The landlord acknowledged that she had mistakenly given out the number on one occasion and

agreed that it would not happen again in the future. The tenant did not submit any argument or evidence that this resulted in a substantial interference with the ordinary and lawful enjoyment of the rental premises.

As the landlord has agreed to not provide the tenant's suite # to visitors in the future I do not make any further finding or orders on this issue.

Is the tenant entitled to a request to vary the tenancy agreement with respect to no bicycles being permitted in the building?

This aspect of the dispute was resolved by way of mutual agreement as the landlord agreed to provide the tenant with a bike rack for storage of his bike. I make no findings or orders with respect to this part of the application.

Is the tenant entitled to recover the filing fee for this application from the landlord?

As I have not made any findings that the landlord has breached the Act, Regulation or tenancy agreement, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for this application from the landlord. The tenant could have avoided the application and accompanying filing fee by first attempting to resolve any issues, specifically the matter of the landlord providing his suite # to visitors, by first informally making the request to the landlord. There was no evidence presented that the tenant first made such a request.

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: August 11, 2016

Residential Tenancy Branch