



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HUNTINGTON PLACE DEVELOPMENT LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, OLC

Introduction

The tenants apply for a monetary award and an order that the landlord comply with the law and the tenancy agreement regarding the conduct of another tenant of the residential property.

It was noted at the commencement of the hearing that the tenants' lawful landlord is the corporation HPD Ltd. and not the respondents Mr. and Mrs. D, who are the building managers. The corporation has therefore been added as a respondent. Mr. D. confirmed that it is aware of the hearing and that he is acting on its behalf.

The tenant Mr. McK indicated that he had filed evidentiary material the day before the hearing. It had not yet found its way to me. This material has been filed far too late to be accepted at this hearing. Rule 3.14 of the Rules of Procedure requires that such material be filed 14 days before the hearing. In any event, Mr. McK. Indicates that the material relates to events that have occurred since the bringing of this application. As such they would not be particularly relevant to the issues at this hearing. Mr. McK. was informed that he could make another application based on the recent occurrences.

The parties attending the hearing were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

Issue(s) to be Decided

Does the relevant evidence presented during the hearing show on a balance of probabilities that the landlord has done or failed to do something that would give rise to

a claim for damages? If so, what is the appropriate measure of damages? Does that evidence indicate that a compliance order against the landlord is called for?

Background and Evidence

The rental unit is a one bedroom apartment on the first floor of a 24 unit apartment complex.

The tenancy started in March 2016. The current monthly rent is \$717.50. The landlord holds a \$358.75 security deposit.

The tenant Mr. McK. testifies that on May 18, 2016 another tenant in the building, Mr. C.N., who he says is a good friend of the manager Mr. T.D., pulled a knife on him in the parking lot outside the apartment building. He says he called to the Mr. T.D. to call the police but Mr. T.D. wouldn't or didn't.

He says that a person or persons unknown (but Mr. C.N. is suspected) have been vandalizing his car in the parking lot and Mr. T.D. won't do anything about it.

The tenant Ms. D. M. testifies that earlier on May 18 Mr. C.N. came to her place of work, drunk, and harassed her and threatened to hurt her. Her boss escorted Mr. C.N. off the property. Later that same day she observed Mr. C.N. arguing with Mr. McK. outside the property. She says that on approaching she saw that Mr. C.N. was holding a knife up to Mr. M.K.'s stomach, saying he was going to kill him. She says she saw the manager Mr. T.D. through his office window and Mr. McK. told him to call the police. She says he told Mr. McK. to "shut up and walk away."

She later informed Mr. T.D. about what had occurred that day with Mr. C.N. at her workplace and Mr. T.D. told her it was not his problem and that he did not want the police on the property.

Mr. McK. and Ms. D.M. went to the police. The police apparently interviewed Mr. C.N. and Mr. T.D. and then informed Ms. D.M. that the police believed Mr. C.N. and Mr. T.D. and not them and that no charges would be laid.

She says that since the May 18 occurrence their vehicle has been repeatedly vandalized. She says she has presented a witness to Mr. T.D. who would say that Mr. C.N. asked him to vandalize their car but that Mr. T.D. did not believe him.

The tenants are of the view that Mr. T.D. is protecting Mr. C.N. a long time tenant and that Mr. T.D. has some persuasiveness with the police because three of his sons are police officers.

The manager Mr. T.D. testifies that Mr. C.N. is not a particular friend of his and that he does not have three sons with the police force.

He says he knows nothing about a knife being pulled on Mr. McK. He recalls the May 18 incident as Mr. McK. came to his window telling him to call the police and he told Mr. McK. to go home. He acknowledges that when he came to the window Mr. McK. may have told him that Mr. C.N had pulled a knife.

He says he has seen no evidence of any vandalism on the tenants' vehicle.

He says he has asked Mr. C.N. to stay away from the applicant tenants.

Analysis

This dispute resolution process is not intended to be a forum for resolving disputes between tenants. Obviously, Mr. C.N. is not a party to this proceeding and he is not obliged to give his version of events. We do not have the benefit of his account of whether he was at Ms. D.M.'s workplace or why or what transpired. We do not have his version of the incident on the residential property later that day.

It is important to note that a landlord's role is not one of a police officer. When a landlord receives a complaint from a tenant about being significantly interfere with, unreasonably disturbed by threatened or assaulted by another tenant, it is the landlord's duty to receive the complaint, investigate it if circumstances reasonably warrant and then take the action that the results of the investigation reasonably call for.

It is apparent that the manager Mr. T.D. has come to the conclusion that the tenants are not to be believed and so he gives little credence to the complaints they have made. He says he did not see the knife incident and did not consider it his obligation to call the police. In regard to vandalism of the tenant's car, he has viewed the car and discovered no vandalism.

It may be that Mr. McK.'s and Ms. D.M.'s version of events is the true version. However, on the evidence before me I can find no reasonable basis for preferring one side's evidence over the other.

The initial burden of proof is on the applicant; the tenants in this case, to show on a balance of probabilities that their version is the more likely one. They have not done so.

I conclude that it has not been shown that the landlord has been neglectful in its duty to receive complaints, investigate them and take action reasonably appropriate to the findings of the investigation.

Conclusion

The tenant's application must be 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: September 02, 2016

Residential Tenancy Branch