



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, FF, O

Introduction

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

1. A Monetary Order for compensation - Section 67;
2. An Order for the Landlord’s compliance - Section 62; and
3. An Order to recover the filing fee for this application - Section 72.

The Landlords and Tenants were each given full opportunity under oath to be heard, to present evidence and to make submissions. The Parties confirmed that the tenancy is ended. As an order for the Landlord’s compliance only applies to an ongoing tenancy, I dismiss this claim.

Issue(s) to be Decided

Is the Tenant entitled to the monetary amounts claimed?

Relevant Background and Evidence

The tenancy started on August 15, 2015 and ended on September 16, 2016. Rent of \$1,600.00 was payable monthly. The Landlord has returned the \$800.00 security deposit to the Tenants that was collected at the outset of the tenancy. The rental unit was purchased by the current named Landlord in June 2016.

The Tenant states that approximately 6 weeks after the purchase of the rental unit the Landlord sent its agent to the unit to demand that the Tenants sign a new tenancy

agreement that would allow the tenancy to end when the Landlord's parents arrived from out of country to live in the unit. The Tenant states that although the Tenants disagreed with a new tenancy agreement the Agent told the Tenants that they had to no option and had to sign the new tenancy agreement. The Tenant states that prior to the Agent appearing at the unit the Tenant had informed the Landlord that formal notice to enter the unit was required by the Tenants and that the Landlord or its agent would not be allowed entry without such notice. The Tenant states that when the Agent appeared at the door the Tenant asked the Agent to leave and the Agent refused. The Tenant states that he had to ask the Agent three times to leave before the Agent finally did. The Tenant states that the next day the Landlord served the Tenants with a two month notice for landlord's use. The Tenants did not dispute the notice and moved out of the unit. The Tenant claims compensation of \$1,063.65.

The Agent states that both he and the Landlord were present on this occasion and that they were only inside the garage door. The Agent does not dispute that he told the Tenants that they had to sign a new tenancy agreement and that the Tenant did ask them 3 times to leave before they left. The Agent states that they were surprised by the Tenants response and that the Tenant shouted at them. The Agent states that they were also at the unit to inspect an alarm problem.

Analysis

Section 7 of the Act provides that where a landlord does not comply with the Act, regulation or tenancy agreement, the landlord must compensate the tenant for damage or loss that results. Section 29 of the Act provides that a landlord must not enter a rental unit that is subject to a tenancy agreement for any purpose unless one of the following applies:

- (a) the tenant gives permission at the time of the entry or not more than 30 days before the entry;
- (b) at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes the following information:

- (i) the purpose for entering, which must be reasonable;
- (ii) the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees;
- (c) the landlord provides housekeeping or related services under the terms of a written tenancy agreement and the entry is for that purpose and in accordance with those terms;
- (d) the landlord has an order of the director authorizing the entry;
- (e) the tenant has abandoned the rental unit;
- (f) an emergency exists and the entry is necessary to protect life or property.

Without evidence of an emergency that was caused by an alarm problem I do not consider the Landlord's attendance at the unit to be an emergency attendance. I also prefer the Tenant's evidence that the Landlord and agent entered the unit and were not simply standing in a garage. Based on the undisputed evidence that there was no notice given to enter the unit and that the Tenant asked the Landlord and its agent 3 times to leave when they appeared at the unit, I find that the Landlord was not given permission to enter the unit and did so anyway. I find the undisputed evidence that the Landlord attempted to force the Tenant to sign a new tenancy agreement to be problematic on its own and in the context of an illegal entry I find that this exacerbated the entry and also caused a loss of peaceful enjoyment for the Tenant. As a result I find that the Tenant is entitled to compensation. I find the amount claimed by the Tenant however to be excessive given that this was a one-time incident. As a result I find that the Tenant has only substantiated nominal compensation of **\$100.00**. As the Tenant's claim of breach by the Landlord has had merit I find that the Tenant is also entitled to recovery of the **\$100.00** filing fee for a total amount of **\$200.00**.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$200.00**. 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: October 20, 2016

Residential Tenancy Branch

