



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC OLC RP RR

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, received at the Residential Tenancy Branch on June 8, 2016 (the "Application"). The Tenant applied for the following relief pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for money owed or compensation for damage or loss;
- an order that the Landlord comply with the Act, regulation or tenancy agreement;
- an order that the Landlord make repairs to the unit, site, or property; and
- an order allowing the Tenant to reduce rent for repairs, services or facilities agreed upon but not provided.

The Tenant attended the hearing on her own behalf. The Landlord attended the hearing on his own behalf. Both parties provided a solemn affirmation.

No issues were raised during the hearing with respect to receipt of the Notice of a Dispute Resolution Hearing, or service of the parties' documentary evidence.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

At the outset of the hearing, the Tenant advised she is not seeking monetary compensation as indicated in her Application. During the hearing, the Tenant confirmed the main issues she wants to have addressed are exclusive use of the yard and freedom from interference by the Landlord, his spouse, their guests, and contractors. I accept the withdrawal of the Tenant's monetary claim and will not consider it further in this Decision.

Issue to be Decided

1. Is the Tenant entitled to an order that the Landlord comply with the Act, regulation or tenancy agreement?
2. Is the Tenant entitled to an order that the Landlord make repairs to the unit, site, or property?
3. Is the Tenant entitled to an order allowing her to reduce rent for repairs, services or facilities agreed upon but not provided?

Background and Evidence

The Landlord provided testimony concerning the tenancy agreement between the parties. He confirmed the tenancy began on or about November 28, 2015. Rent in the amount of \$800.00 per month is due on the first day of each month.

Albeit quite vague, the Tenant provided oral testimony in support of her claims. She testified the parties agreed she is entitled to exclusive use of a portion of the yard, but did not submit a copy of the tenancy agreement in support. In any event, the Tenant stated the Landlord and his spouse are frequently in the yard and around the Tenant's rent unit. She stated the Landlord's spouse "sneaks up" on her. The Tenant also testified that she woke up one morning to discover a roofing contractor at the property, which she had not expected.

In reply, the Landlord stated that neither he nor his spouse is interested in disrupting the Tenant. However, he confirmed he wishes to ensure the property and yard are maintained appropriately. He is prepared to perform yard maintenance but is not prepared to accept the Tenant's swearing and threats.

The Tenant also complained that that someone tore down the fence and did not properly deal with blackberry and raspberry bushes in that location by digging them up. As a result, these plants are growing near her rental unit.

In reply, the Landlord confirmed the neighbour took down an old fence and replaced it with a suitable new fence. He indicated the work was done in an appropriate amount of time and that he did not have any control over that work.

The Tenant confirmed she wants to be left to her own devices and not be bothered by the Landlord, his spouse, their friends, or contractors. Although the Tenant has some physical limitations, she stated she wants to do her own yard maintenance. The Landlord confirmed the Tenant has not mowed the lawn since the Application was filed.

The Landlord expressed uncertainty regarding the Tenant's claims. He stated the Tenant is welcome to use her portion of the yard but that it needs to be maintained. The Landlord is prepared to do the yard maintenance. The Landlord also provided testimony indicating that the Tenant swears and yells at his guests and contractors when on the property. The Landlord provided four letters from a guest, a neighbour, and two contractors in support of his testimony about the Tenant's behaviour.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 62(3) of the *Act* enables me to make an order that the Landlord comply with the *Act*, the regulations, or a tenancy agreement. The Tenant has made a number of claims about maintenance on and around the property, and how the presence of others impacts her privacy. The Landlord has indicated he has no desire to disrupt the Tenant's right to use the rental unit and property but wishes to maintain the property without interference.

Section 32 of the *Act* sets out the rights and obligations of landlords and tenants with respect to maintenance of rental property. A landlord is required to provide and maintain residential property in a state of decoration and repair that complies with applicable health, safety and housing standards, and make it suitable for occupation by a tenant. The Tenant described a fence replacement and some blackberry bushes that were not removed to her satisfaction. The Landlord's evidence is that he wishes to perform maintenance around the property unimpeded by the Tenant.

Section 65 of the *Act* allows me to make an order that the Tenant may deduct an amount from rent. However, neither party made any submission with respect to a reduction in rent.

I find that the Tenant has provided insufficient evidence for me to conclude she is entitled to the relief sought. Accordingly, the Tenant's Application is dismissed.

Conclusion

The Tenant's Application is 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: October 31, 2016

Residential Tenancy Branch

