



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Kerrisdale Realty
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC RP FF

Introduction

First Convening of Hearing

This hearing first convened on July 14, 2016, pursuant to the tenant's application for monetary compensation and orders for repairs. The tenant and the landlord's agent participated in the teleconference hearing.

The tenant was served with a notice to end tenancy but stated in the hearing that he was not disputing the notice and the tenancy would therefore end on August 31, 2016. I informed the parties that as the tenancy was ending, I would not issue repair orders. Further, a portion of the tenant's monetary claim included a reduction in rent. The tenant agreed to withdraw both of those portions of his application. The hearing proceeded on the remainder of the tenant's monetary claim. The allotted 60 minutes for the hearing passed, and as the parties had not given all of their testimony, I adjourned the hearing.

Second Convening of Hearing

The hearing reconvened on September 9, 2016. I concluded the teleconference portion of the hearing after 86 minutes.

Written Submissions

I allowed the parties to make written submissions. I ordered the landlord to submit his written closing statement to the Branch and the tenant by September 16, 2016, and I ordered the tenant to submit his written closing statement to the Branch and the landlord by September 23, 2016. I informed the parties that they may not introduce any further evidence in these submissions, as the purpose of the written submissions is to provide their closing statements only. I informed the parties that I would not consider any new evidence in the closing statements. I received written statements from both parties within the set deadlines.

Evidence

Each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give affirmed testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is the tenant entitled to monetary compensation as claimed?

Background and Evidence

The rental unit is a condo in a strata building. The tenant owned the condo until June 2009, when he sold the condo and entered into a tenancy agreement with the new owner to rent the condo. The tenancy ended on August 31, 2016.

Tenant's Claim

The tenant claimed monetary compensation totalling \$24,940.00. The tenant submitted extensive documentary and digital evidence and gave approximately two hours of testimony, as well as providing final written submissions to support his claim.

The tenant claimed compensation for periods of time – ranging from 23 days to 60 months – that the landlord allegedly failed to do requested repairs to the tenant's satisfaction. The tenant also claimed \$2,500.00 for loss of quiet enjoyment and aggravated damages, and \$15.00 for mailing repair requests by registered mail.

The tenant disputed the landlord's argument that the tenant only made himself available for very limited times for technicians to attend and do repairs. The tenant stated that he

was very accommodating and helpful. The tenant acknowledged that he asked one technician not to wear so much cologne because the tenant's son is sensitive to odours. The tenant stated that he was polite and reasonable with the technician, who just chose not to come back.

I note that in the tenant's repair requests, he repeatedly threatened to apply for dispute resolution. However, the tenant did not make any application until after he was served with a notice to end tenancy.

Landlord's Response

The landlord stated that the tenant's application is completely unfounded. The landlord stated that during the tenancy they replaced several appliances and parts with brand new ones. The landlord stated that they responded in a timely manner to all of the tenant's complaints or requests for repairs, by booking technicians or notifying the strata.

The landlord stated that on several occasions the tenant called the technicians and cancelled scheduled appointments. The landlord pointed out that it was not necessary for the tenant to be present while technicians attended, but the tenant insisted. The landlord stated that the tenant repeatedly interfered with technicians; tried to influence technicians' assessments; and tried to prevent the landlord from conducting a test on the dryer. The landlord stated that during the first four years of the tenancy, they repeatedly paid the tenant for his time to research, arrange for and carry out repairs.

Analysis

Upon consideration of the evidence and on a balance of probabilities, I find that the tenant's application is entirely without merit and verges on being frivolous and an abuse of the dispute resolution process.

I find that the tenant significantly interfered with the landlord's ability to carry out their business. It was not necessary for the tenant to be present when repairs were carried out, yet the tenant only provided limited times when he would allow technicians to attend, and even went so far as to cancel appointments, complain about the technicians or their work and influence their assessments. The tenant's own evidence confirms this behaviour, any instance of which could have formed grounds to end the tenancy for cause.

Further, the tenant failed to mitigate any losses by allowing alleged issues to persist, sometimes for years, rather than make an application for dispute resolution.

The tenant's application is dismissed.

Conclusion

The tenant's application is entirely without merit and verges on being frivolous and an abuse of the dispute resolution process. The application is dismissed in its entirety.

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 21, 2016

Residential Tenancy Branch