



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Gateway Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FF, MNDC, OLC

Introduction

This is an application brought by the tenant(s) requesting a monetary order in the amount of \$2150.00 and recovery of their \$100.00 filing fee

A substantial amount of documentary evidence, digital evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also took some testimony orally.

All parties were affirmed.

Issue(s) to be Decided

I first dealt with a preliminary matter with regards to this claim, as it relates to a decision from a previous dispute resolution hearing.

Background and Evidence

The applicant had filed a previous application for dispute resolution in which they had requested compensation from the landlords, however the Arbitrator in that decision wrote the following:

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. In a claim for damage or loss under the Act,

regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that the damage or loss claimed was caused by the actions or neglect of the responding party. Accepting the Landlord's persuasive evidence that the matter of the Tenant being disturbed by the Caretaker was only recently brought to the Landlord's attention and was dealt with immediately, I find that the Tenant has not shown that the Landlord failed to act. I dismiss the claim for compensation for loss

As the Landlord was within its right to serve the Tenant with the Notice, albeit an ultimately unsuccessful one, as there is no evidence that the Landlord has breached the Act by serving the Tenant with the Notice in bad faith or to harass the Tenant, and as the Act does not provide for compensation for having to participate in a dispute proceeding other than for recovery of the filing fee costs, I dismiss the Tenant's claims for compensation.

On this application the applicants had again requested compensation back to August 2015, again for loss of quiet enjoyment, and for work days missed on October 7, 2015 February 19, 2016 March 18, 2016, April 4, 2016 April 12, 2016 and April 14, 2016.

It is my decision however that, since the previous Arbitrator dismissed the claims for compensation on April 19, 2016, the tenant cannot file another claim for issues that occurred prior to April 19, 2016.

I informed the applicants at the hearing that we could not deal with any issues prior to the April 19, 2016 decision, however the applicants were unable to limit their claim to issues that occurred after April 19, 2016, and therefore it is my decision that I will not proceed with this hearing today.

It is also my finding that it would be unreasonable to proceed with the hearing today considering that the hearing package served on both the Residential Tenancy Branch and the respondent does not clearly lay out a claim that arose after the April 19, 2016 hearing, and includes a substantial amount of evidence for issues that arose prior to that hearing, which make it both confusing for myself, and I believe too confusing for the respondent to clearly understand the claim against them.

It's my decision therefore that I will dismiss this claim with leave to reapply; however I informed the applicant's that any new application must relate to issues or claims that arose after the April 19, 2016.

Conclusion

This application is dismissed with leave to reapply.

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: December 06, 2016

Residential Tenancy Branch