



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes MNDC OLC RP PSF AAT FF

### Introduction

This hearing convened pursuant to the tenants' application for monetary compensation for damage or loss under the Act, regulation or tenancy agreement; orders that the landlord comply with the Act, do repairs, provide services or facilities by law and allow access of the tenants and their guests; as well as recovery of the filing fee for the cost of the application. One tenant, the daughter of the other tenant, a witness for the tenants and the landlord participated in the teleconference hearing.

### Preliminary Issues

#### *Evidence*

The tenants stated that they did not receive the landlord's evidence. The landlord stated that he placed the evidence in the tenants' mailbox on December 16, 2016 and it was not there on December 17, 2016. The tenants stated that they vacated the rental unit on December 15, 2016. The landlord stated that the tenants still have a lot of possessions in the rental unit and someone was living there until December 25, 2016. Additionally, the landlord stated that this evidence was the same evidence that he served on the tenants for a previous hearing. The tenants stated that they did not receive the landlord's evidence on either occasion.

After I concluded the teleconference hearing, I determined that it was not necessary for me to consider the landlord's evidence in reaching my decision in this matter, and I therefore do not admit the landlord's documentary or digital evidence.

#### *Amendments*

On December 8, 2016 the tenants amended their monetary claim to increase it from \$3,500.00 to \$6,000.00. I allowed the amendment.

As the tenancy was over by the time of this hearing, I did not need to consider the portions of the tenants' application regarding orders that the landlord comply with the Act, do repairs, provide services or facilities

by law and allow access of the tenants and their guests. I only heard and considered admissible evidence and make a determination regarding the tenants' monetary claim.

The parties were given full opportunity in the hearing to give affirmed testimony and present their evidence. I have reviewed all testimony and other admissible evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

#### Issue(s) to be Decided

Are the tenants entitled to compensation for damage or loss under the Act, regulation or tenancy agreement?

Are the tenants entitled to recovery of their filing fee?

#### Background and Evidence

This tenancy has been subject of past dispute resolution hearings, in October 2016 and on December 23, 2016. The parties did not dispute that the tenancy ended in December 2016.

The tenants' monetary claim stems from what they have described as a loss of quiet enjoyment and loss of access to heat, hot water, electricity, laundry facilities and their storage area, all caused by another tenant in the rental house, KI.

The tenants stated that when KI moved in downstairs, he started using his bathroom fan, which was very loud, and which he would leave on all day. The tenants stated that they asked him to turn his fan off, and then KI started harassing them, especially in the shared laundry room. The tenants stated that KI started turning off the tenants' power and heat, and he would run the hot water all day so that there was nothing left for the tenants. The tenants and their witness stated that KI then started peeking out of his window and filming them, and he began calling the police, even if the tenants coughed. The tenants stated that KI must have called the police on them at least 75 times. The tenants and their witness stated that KI would park his truck in the tenants' spot or he would park so close to the entrance that they could not use it. The tenants stated that KI barricaded the laundry room, so they could not use it.

In support of their application, the tenants submitted evidence including video recordings of interactions between the tenants and KI and copies of texts between the landlord and the tenants regarding KI.

I note that in the tenants' video evidence, it appears that the tenant's daughter was insulting KI and attempting to provoke him. In the tenants' text evidence, they refer to KI as "looser," "idiot" and "Asshole" (reproduced as written).

The landlord stated in the hearing that the tenants would invite their friends over and smoke marijuana and stomp on the floor. Further, in November 2016 the tenant set the door separating the units on fire and as a result she was criminally charged.

#### Analysis

Upon review of the evidence, including the testimony of the tenants, their witness and the landlord, and the documentary and digital evidence of the tenants, I find that the tenants' application is merely further retaliatory action against the landlord and by extension, KI. I find that while the tenants may have

experienced temporary loss of quiet enjoyment or other loss due to the actions of KI, the evidence shows that at least part of the time the tenants had provoked such behaviour from him.

I find that the tenants' application is frivolous and an abuse of the dispute resolution process, and under the authority of section 62(4)(c) I dismiss the application in its entirety.

As the tenants' application was dismissed, they are not entitled to recovery of the filing fee for the cost of their application.

#### Conclusion

The tenants' application is frivolous and an abuse of the dispute resolution process and is therefore 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: January 25, 2017

---

Residential Tenancy Branch