Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, O, FF

Introduction

The tenant applies for a monetary award for damages suffered as a result of alleged break-ins to her suite and the fact that the basement suite in question was an illegal suite.

The tenancy in question started in December 2013 and ended in early February 2016.

At the start of the hearing the attending landlord noted that this matter had been settled in an earlier dispute resolution hearing.

The related files noted on the cover page of this decision show that on February 1, 2016 the tenant and her co-tenant Mr. M.P. brought an application against the respondent landlord Ms. B.S. and her co-landlord Ms. T.S. seeking damages in the range of $19,800.00 on similar grounds to those alleged in this application. The landlords brought their own application for damages in the range of $20,000.00.

Both applications came on for hearing March 15, 2016. Both landlords attended the hearing, as did the tenant Mr. M.P. The applicant tenant Ms. A.L. did not attend.

The arbitrator reported in the decision:

> During the course of the hearing, the parties reached an agreement to settle these matters, on the following conditions:
>
> 1. the Landlords and the Tenant both agreed to withdraw their applications.
> 2. both parties agreed that no more applications to the Residential Tenancy Branch would be made regarding this tenancy.

Ms. A.L. argues that this settlement is not binding on her. She says that she was afraid to attend the hearing. She says she was unaware of the landlords' application against her. She says that she was unaware of the decision noted above. She says that the claims she wishes to present at this hearing happened after that application.

Ms. A.L. was obliged to attend the March 15, 2016. It was a telephone conference hearing. She has not shown a basis for being fearful of attending a telephone hearing.

In any event, she could have had someone in addition to her co-tenant attend on her behalf had their interests been divergent. Had her co-tenant Mr. M.P. not attended, her application would have been dismissed outright, without leave to re-apply.

It is apparent that Mr. M.P. had at least apparent authority to speak for Ms. A.L. It is apparent that the attending landlords withdrew their application on the understanding that both tenants were withdrawing their application and not bringing any more.

At the time the settlement was reached the parties had ceased their landlord and tenant relationship for perhaps a month or more. Any claims that had arisen after the initiation of the tenants' February 1, 2016 application, were known or should have been known.

Thus, when the agreement was reached "that no more applications . . . would be made regarding this tenancy," that agreement encompassed causes that might have arisen after the tenants' February 1 application.

For these reasons I find that the settlement reached at the March 15, 2016 hearing is a bar to this application. It is not within my authority to overturn the decision recording that settlement.

The tenant Ms. A.L. indicates that she was unaware of the March 15, 2016 decision and settlement. While one might point to the extraordinariness of a claimant seeking $19,800.00 not being inquisitive about the outcome of her hearing, if Ms. A.L. has not received the decision, she may contact the Residential Tenancy Branch to obtain a copy and to receive direction regarding a review or judicial review of the decision.

In result, the tenant's application must be dismissed.

This decision was rendered orally at hearing and 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: April 26, 2017

Residential Tenancy Branch