



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the tenants seeking a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement and to recover the filing fee from the landlords for the cost of the application.

One of the tenants and one of the landlords attended the hearing and the landlord was accompanied by an Articled Student (hereafter referred to as the landlords' counsel). The parties each gave affirmed testimony and were given the opportunity to question each other and give submissions.

The parties agree that all evidence has been exchanged, all of which has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Have the tenants established a monetary claim as against the landlords for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for veterinarian bills and lost wages?

Background and Evidence

The tenant testified that this month-to-month tenancy began on December 1, 2013 and ended on June 30, 2017. Rent in the amount of \$1,250.00 per month was originally payable on the 1st day of each month, and the tenants agreed to rental increases from time to time, which ultimately increased rent to \$1,450.00 per month, and there are no rental arrears. At the outset of the tenancy the landlords collected a security deposit from the tenants in the amount of \$625.00 as well as a pet damage deposit in the amount of \$300.00, both of which have been returned to the tenants in full. The rental unit is a semi-detached suite in the landlords' home, and the landlords also reside there. There are 3 rental units in the large building.

The tenant also testified that in March, 2016 the dog belonging to the landlords' daughter attacked the tenants' dog. The tenant didn't see the attack but heard screaming and broke up the fight. A copy of a veterinarian bill in the amount of \$309.59 has been provided as evidence for this hearing, and the tenant testified that she had to obtain additional pain medication for the dog totaling \$38.87. After that, the landlords told the tenant that the landlords would always let the tenant know if their daughter's dog would be visiting the property. The landlords offered to pay half of the bill, but the tenant thought that the landlords' daughter should pay for it, and the tenant suggested building a fence.

On April 20, 2017 the dog belonging to the landlords' daughter again attacked the tenant's dog, and this attack was more severe. The tenant heard her dog scream, opened the door, and saw the tenant's dog and cat under a chair on the tenant's porch. The dog belonging to the landlords' daughter was not on a leash and had its mouth around the back-side of the tenant's dog. The tenant paid \$1,598.30 for a veterinarian bill as well as \$850.22 for an overnight animal hospital stay, as well as \$15.04 for more pain medication. Copies of invoices have been provided as evidence for this hearing. The tenant testified that the opinion of the veterinarian was that it was not an attack, but the dog belonging to the landlords' daughter tried to kill the tenant's dog.

The tenant also testified that she has witnessed the dog belonging to the landlords' daughter choke himself trying to lunge at the tenant.

The Regional District investigated after the second attack and called the tenant stating that the dog belonging to the landlords' daughter was deemed a dangerous dog, meaning that it needs to be muzzled, a Beware of Dog sign must be erected, and that the owner of the dog will be fined if the Regional District is called for the dog being off leash or not muzzled.

Eight days later, the tenant was asked to end the tenancy because the landlords intended to renovate and have family move into the rental unit. The tenant was suspicious that a Mutual Agreement to End Tenancy was presented to the tenants after the second dog attack. The tenant had to ask multiple times about the reason for ending the tenancy, and asked the landlord to write the reason into the Mutual Agreement to End Tenancy, which she did. A copy has been provided and it is dated April 28, 2017 and contains an effective date of vacancy of June 30, 2017. A hand-written notation on the top states: "Family member moving in after renovations." The landlords gave the tenants 2 free months rent and \$2,900.00 in addition to returning the full security deposit and pet damage deposit, and the tenant believed the \$2,900.00 was

to compensate the tenants for moving expenses and the drastic increase in the rental market. The compensation had nothing to do with veterinarian bills.

The tenants have provided a Monetary Order Worksheet setting out the following claims:

- \$309.59 for the Animal Hospital;
- \$38.87 for pain medication;
- \$1,598.30 for a veterinarian bill;
- \$850.22 for an overnight stay at the Animal Hospital;
- \$16.10 for pain medication; and
- \$264.42 for lost wages.

The tenants' total claim is \$3,017.50.

The landlord testified that tenants are permitted to have dogs and to be off leash, but the landlords want them to mitigate; if tenants expect to have difficulty with pets, the tenants will take responsibility and deal with it. The tenant's dog was loud and often growly and it was obvious that the dog belonging to the landlords' daughter showed signs of taking issue with the tenant's dog, but no different than with other dogs on the property.

The landlord does not disagree that the landlords had agreed to text the tenant if the other dog was going to visit the rental property, and does not dispute the 2 fights. In both instances, the tenant's dog was off-leash. The landlord heard her daughter say to her dog, "Get your ball," and the dog ran around to the front which is when the second attack must have happened. That attack was significantly more serious than the first, and the wounds were significant.

The Regional District pounded on the landlord's door and said that the landlord's dog is vicious and from now on will be on a watch list, meaning that the dog has to have a muzzle, there must be a Beware of Dog sign on the front window, and the next time the dog would be put down. There was no discussion about which dog was the aggressor.

The landlord agreed that the tenant was asked to sign a Mutual Agreement to End Tenancy, and told the tenant a family member would be moving in. A family member has moved in. The landlords gave the tenant 2 months of rent for free and an additional \$2,900.00. The tenant asked the landlord if that was to cover the veterinarian bills, and the landlord told them to use it for whatever they wanted.

Analysis

Where a landlord ends a tenancy for renovations or for a family member to move into, a landlord is required to give a Two Month Notice to End Tenancy for Landlord's Use of Property and must compensate the tenant the equivalent of one month's rent. However, if the parties mutually agree to end the tenancy, the tenant is not entitled to any compensation.

In this case, the parties mutually agreed to end the tenancy in writing, and therefore I find that the landlords had no obligation to provide one free months rent, but the parties agree that the landlords gave two months of free rent in addition to another two months rent. The landlord testified that the tenant specifically asked if the compensation was to cover the veterinarian bills and the landlord replied that the tenants could use it for whatever they wanted.

I agree with counsel for the landlords that to order the landlords to pay an additional \$3,017.50 for veterinarian costs and lost wages when they have already given the tenants \$5,800.00 that they were not obligated to do, would be unjust enrichment.

The tenants' application is hereby dismissed.

Conclusion

For the reasons set out above, the tenants' application is hereby 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: December 01, 2017

Residential Tenancy Branch