



Dispute Resolution Services

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Residential Tenancy Branch Office of Housing and Construction Standards

A matter regarding PACIFICA HOUSING
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC

Introduction

This hearing was convened as a result of the tenant's Application for Dispute Resolution ("application") under the *Residential Tenancy Act* ("Act") for a monetary order in the amount of \$870.00 for the return of double his monthly rent.

The tenant and an agent for the landlord S.M. ("agent") attended the teleconference hearing. The parties gave affirmed testimony, were provided the opportunity to present their evidence orally and in documentary form prior to the hearing, and make submissions during the hearing.

Neither party raised any concerns regarding the service of documentary evidence.

Issue to be Decided

- Is the tenant entitled to the return of double his monthly rent under the *Act*?

Background and Evidence

During the hearing the tenant claims that he was told that he could apply for the return of double his monthly rent. The tenant submitted in evidence that he was placed on an Undertaking Given to a Peace Officer or an Officer in Charge dated January 31, 2017 for the criminal charge of Criminal Harassment under section 264(1) of the *Criminal Code* ("*Undertaking*"). In the Undertaking, the tenant is ordered not to attend at the rental unit address and claims that due to rent being paid for February 2017 that he should have double the monthly rent returned to him as he was not allowed to return to the rental unit.

The tenant was advised during the hearing that the Undertaking was the result of the police charging him with Criminal Harassment and as per the Undertaking that he was not allowed to return to the rental unit as a term of his Undertaking and that as a result, the landlord has done nothing contrary to the *Act*, regulation or tenancy agreement. Further, the tenant was advised that his application was being dismissed in full for being both frivolous and an abuse of process which will be described further below.

Analysis

Based on the above and the evidence provided, and on a balance of probabilities, I find the following.

I find the tenant was not permitted to attend the rental unit by the police due to his own actions and that the tenant has failed to prove that the landlord has breached the *Act*, regulation or tenancy agreement. Therefore, **I dismiss** the tenant's application in full **without leave to reapply** pursuant to section 62(4)(c) of the *Act* which states:

Director's authority respecting dispute resolution proceedings

62 (4) The director may dismiss all or part of an application for dispute resolution if

(c) the application or part is frivolous or an abuse of the dispute resolution process.

[My emphasis added]

I find the tenant's application is both frivolous and an abuse of the dispute resolution process as the tenant has requested his rent back for a period in which the tenant was prohibited from attending the rental unit due to criminal charges of Criminal Harassment and the related conditions of the Undertaking the tenant was placed on by the police.

I caution the tenant from making any future frivolous claims that are an abuse of the dispute resolution process.

Conclusion

The tenant's application has no merit and has been dismissed as it is both frivolous and an abuse of the dispute resolution process.

This decision is final and binding on the parties, unless otherwise provided under the Act, 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: January 26, 2018

Residential Tenancy Branch