



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MORE THAN A ROOF MENNONITE HOUSING
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFT MNDCT OLC PSF RP

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make repairs to the rental unit pursuant to section 33;
- an order to the landlord to provide services or facilities required by law pursuant to section 65; and
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The corporate landlord was represented by its agents. The agent JL (the "landlord") primarily spoke on behalf of the landlord.

As both parties were present service of documents was confirmed. Both parties confirmed that they had been served with the respective materials. Based on the testimonies I find that each party was duly served with the respective materials in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Is the tenant entitled to a monetary award as requested?

Should the landlord be ordered to comply with the Act, regulations or tenancy agreement?

Should the landlord be ordered to make repairs to the rental unit or provide services or facilities required?

Is the tenant entitled to recover the filing fee from the landlord?

Background and Evidence

The parties agreed on the following facts. This periodic tenancy began in October 2017. The current monthly rent is \$360.00 payable on the first of each month. The rental unit is a suite in a rental building with 63 individual units.

The tenant seeks a monetary award in the amount of \$2,191.26. The tenant submitted into documentary evidence written arguments, photographs of the suite, receipts and some correspondence with the landlord. The tenant submits that the landlord has failed to maintain the rental building in a professional manner and has failed to take action to address complaints in a reasonable timeframe. The tenant's complaints include the level of cleanliness of the common areas, an infestation of moths and pests in the suite, the behaviour of other residents in the building, inconsistent application of rules in the building and unfair characterization of the tenant by the landlord. The tenant submits that as a result of the infestation in the suite they have had to discard foodstuffs and possessions resulting in a loss. In addition, the tenant submits that they have incurred numerous hours of work and have suffered a loss of enjoyment.

The landlord disputes the tenant's claims generally and testified that they have acted in a professional manner addressing tenant complaints. The landlord disputes that the tenant was required to dispose of foodstuffs in their suite. The landlord testified that they have acted in a manner consistent with professional standards addressing tenant complaints, balancing them against the other resident's rights.

Analysis

Residential Tenancy Procedure Rule of Procedure 6.6 provides that the onus is on the person making the claim to prove their claim on a balance of probabilities. In the present case I find that the evidence submitted by the tenant do not cumulatively or individually meet the evidentiary burden to prove the claim.

Section 67 of the *Act* allows me to issue a monetary award for loss resulting from a party violating the *Act*, regulations or a tenancy agreement. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. The claimant also has a duty to take reasonable steps to mitigate their loss.

While the tenant has submitted lengthy written submissions, photographs and receipts and provided testimony about what they feel are the deficiencies in this tenancy, I find that the tenant's subjective complaints are not sufficient to show that there has been any violation on the part of the landlord that gives rise to a monetary award. I accept that the tenant feels they have been wronged and have had an unpleasant living experience during the past months. However, I find that there is insufficient evidence to show that the landlord has not acted in accordance with their professional obligations in accordance with the legislation.

Based on the evidence of the parties I find that the landlord has taken reasonable action in response to the tenant's complaints. In a multi-residence building such as this a landlord must balance their duty to provide accommodations against the rights of other residents. I accept the evidence that the landlord took reasonable steps to deal with the pest infestation the best they could under the circumstances. I find that there is insufficient evidence that any losses suffered by the tenant were caused by the landlord's actions or negligence.

I find that at all relevant times there is insufficient evidence that the landlord has not acted in a manner consistent with a reasonable person held to a professional standard. I find that there is insufficient evidence that there has been any breach by the landlord that would give rise to any of the relief sought by the tenant in this application. Consequently, I dismiss the tenant's application.

Conclusion

The tenant's application is dismissed in its entirety without 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: February 21, 2019

Residential Tenancy Branch