



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT

Introduction

This teleconference hearing was scheduled in response to an application by the Tenant under the *Residential Tenancy Act* (the “Act”) for monetary compensation.

The Tenant was present for the teleconference hearing, as was the Landlord and the Landlord’s spouse (collectively the “Landlord”). The Landlord confirmed receipt of the Notice of Dispute Resolution Proceeding package and a copy of the Tenant’s evidence. The Tenant stated that he did not receive a copy of the Landlord’s evidence, although it was unclear whether the evidence package had been received and the Tenant thought it was documents for a previous hearing.

However, the Landlord and the Landlord’s spouse both confirmed that a copy of their evidence was posted on the door to the rental unit on March 4, 2019, at which time the Tenant was still residing in the rental unit. As such, I accept the affirmed testimony of the Landlord that the evidence package was served to the Tenant on March 4, 2019 and find that this was served within the timeline required by the *Residential Tenancy Branch Rules of Procedure*. Therefore, the evidence of both parties is accepted and will be considered as part of this decision.

The parties were affirmed to be truthful in their testimony and were provided with the opportunity to present evidence, make submissions and question the other party.

Issues to be Decided

Is the Tenant entitled to monetary compensation?

Background and Evidence

While I have considered the relevant documentary evidence and testimony of both parties, not all details of the submissions are reproduced here.

The parties were in agreement as to the details of the tenancy. The tenancy began in April 2018 and ended on March 8, 2019. Monthly rent was \$622.00 and a security deposit of \$311.00 was paid at the outset of the tenancy.

The Tenant has applied for compensation in the amount of \$35,000.00. He submitted a Monetary Order worksheet that outlines his claims in the amount of \$45,555.82, although he stated that he is claiming the maximum limit of \$35,000.00.

The Tenant referenced a previous hearing that occurred on September 6, 2018 with a decision issued on September 25, 2018. The decision was included as evidence, along with a request for a correction for that decision. The file number is listed as the first file number listed on the front page of this decision.

The Tenant provided testimony that the decision dated September 25, 2018 cancelled a One Month Notice, as he had applied for. The Tenant stated that since the One Month Notice was cancelled, the Landlord went through a campaign to evict them. He noted that his car started getting vandalized regularly including screws in his tires and a smashed window. The Tenant submitted multiple photos of his car, including photos of a broken window and a photo of a screw or nail in a tire.

The Tenant stated that he was living with his girlfriend at the time in the lower level rental unit of the residential property. He stated that he had a home-based business which he had informed the Landlord about at the start of the tenancy.

The Tenant stated that after the decision cancelling the One Month Notice, the pressure to evict the Tenant continued as the Landlords believed that they were correct in serving him with a notice to end tenancy.

The Tenant submitted that he heard from a neighbour that the Landlord was going door-to-door to obtain signatures to get him evicted. The Tenant also stated that the vandalism continued as did the harassment in the neighbourhood.

The Tenant further testified that due to the time involved with the eviction notice and September 2018 hearing, along with the time dealing with the stress and harassment

from the Landlord and the neighbours he was unable to complete work and experienced a significant loss of income.

The Tenant submitted two invoices from his business addressed to the Landlord. Both invoices were dated March 11, 2019. The first noted 24 hours for a total of \$4,662.00 including tax and the second noted a charge of \$18,648.00 including tax.

The Tenant testified that the stress was significant and due to this his girlfriend ended their relationship. On the Monetary Order Worksheet, the Tenant claimed \$10,000.00 for damages to personal life, including the loss of his relationship and \$10,000.00 for punitive damages.

The Tenant submitted police file numbers as well as a list of police complaints filed by the Tenant from December 28, 2018 to February 15, 2019.

The Tenant stated that it does not matter who actually committed the vandalism to his car. Instead he stated his belief that the vandalism was due to the campaign against him in the community which had occurred due to the Landlord's efforts to have him evicted.

The Tenant has claimed \$1,455.82 for new tires and provided a quote for tire replacement in this amount dated August 8, 2018. The Tenant has also claimed \$450.00 for a new moonroof in his car, \$1,100.00 for painting the scratches on his car and \$350.00 for replacing the side window which was damaged. The Tenant stated that the estimate for the paint repairs was verbal. He submitted an estimate for the window repair dated October 2, 2018 in the amount of \$165.00 plus taxes and also submitted information about the moonroof on his car.

The Tenant further stated that the first One Month Notice was fraudulent and after the notice was cancelled the pressure kept building and led to multiple issues of stress and harassment. The Tenant stated that the Landlord was acting in bad faith when issuing the One Month Notice and that his quiet enjoyment was continually disrupted.

The Landlord submitted that the Tenant has no evidence that any vandalism that occurred to the Tenant's car is connected to them. The Landlords noted that they were told that the Tenant's car was vandalized in a parking lot. They further stated that the Tenant accused them of kicking the door of the rental unit when serving the One Month Notice, which was untrue, as was a claim that they served this notice at 1:00 am.

They stated that the One Month Notice was served due to concerns that the Tenant was smoking on the residential property and causing disturbances to others. They stated that the Tenant's lies have caused significant stress to them as well as a financial burden.

The Landlord submitted into evidence a previous decision and Order of Possession dated February 21, 2019 which was granted on a One Month Notice. The file number for this decision is listed as the second file number on the front page of this decision.

The Landlord also submitted a copy of police records that they requested and received February 11, 2019. Although a significant amount of information is redacted due to privacy issues, a police report dated November 9, 2018 states that the police attended the rental unit due to the Tenant's claims that the Landlord was secretly filming him. The report notes that the claims were unsubstantiated and that the police found no evidence of such.

A police report dated December 15, 2018 was also included in the information requested by the Landlord and states that the police attended the rental unit due to claims that the Landlord's spouse broke the door to the rental unit. The report notes that there was no damage found and the file was concluded.

The Landlord also submitted a letter from the Tenant's previous girlfriend. The letter, dated January 5, 2019, notes that she resided with the Tenant between April 2018 and December 2018 and that the Landlord and spouse caused no disturbances during that time period.

Analysis

As stated by rule 6.6 of the *Residential Tenancy Branch Rules of Procedure*, the onus to prove a claim, on a balance of probabilities, is on the party making the claim. Therefore, in this matter the Tenant bears the burden of proof.

As stated in Section 7 of the *Act*, if a party does not comply with the *Act*, they must compensate the other party for any losses that occur as a result. *Residential Tenancy Policy Guideline 16: Compensation for Damage or Loss* provides a four-part test to determine if compensation is due:

- a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;
- loss or damage has resulted from this non-compliance;
- the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and
- the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

The Tenant has claimed a total of \$35,000.00 and referenced a loss of quiet enjoyment due to harassment from the Landlord and the Landlord's spouse as well as stress caused from a fraudulent One Month Notice. Section 28 of the *Act* states that a tenant is entitled to quiet enjoyment including freedom from unreasonable disturbance.

While the Tenant provided testimony that the Landlord and the Landlord's spouse were harassing him and campaigning neighbours to sign a petition for his eviction, I do not find sufficient evidence to establish this. The Tenant did not submit any proof from neighbours or others that would establish that this was occurring. I also do not find evidence before me to determine that the Landlords were connected to any vandalism that occurred to the Tenant's car, either directly or indirectly.

The Tenant submitted photos of his car, as well as quotes for repairs. Although some of the photos show damage to the car, I do not have any evidence before me that connects this damage to the Landlord or to a breach of the *Act* by the Landlord.

The Tenant also testified as to the stress caused due to a fraudulent One Month Notice served to him, which was later cancelled through a dispute resolution proceeding. I understand the stress involved in receiving a notice to end tenancy and attending a hearing to dispute the notice. However, a landlord has a right under Section 47 of the *Act* to serve a tenant with a One Month Notice should they believe they have cause to do so and a tenant has a right to dispute the notice should they not believe it is valid. Therefore, I find that I have no evidence before me to establish that the Landlord was in breach of the *Act* regarding serving the Tenant with a One Month Notice.

I find the evidence of the Landlord to be compelling, particularly the letter from the Tenant's previous partner and the police reports. The letter notes no disturbance from the Landlords during the time the Tenant's partner was residing there and the police reports notes that the claims made by the Tenant were not substantiated.

The Tenant has claimed compensation for the cost of repairs to his car, loss of wages, compensation for damages to his personal life as well as punitive damages. However, as stated, I do not find evidence before me that the Tenant has met the burden of proof to establish this claim. Specifically, I do not find that the Tenant has provided sufficient evidence to meet the four-part test in establishing that the Landlord breached the *Act* and that the Tenant suffered a loss as a result.

I do not find evidence that the One Month Notices served to the Tenant were not issued in accordance with the *Act* and I am not satisfied that the Tenant has established that he experienced a loss of quiet enjoyment that was caused by the Landlord. Therefore, I find insufficient evidence to establish the Tenant's claims and I decline to award any compensation to the Tenant. The Tenant's application is dismissed, without leave to reapply.

Conclusion

The Tenant's Application for Dispute Resolution is dismissed, 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: April 5, 2019

Residential Tenancy Branch