



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, OLC, RP, LRE, LAT

Introduction

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

- a monetary order for compensation for losses or other money owed under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to change the locks to the rental unit pursuant to section 70;
- 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; and
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70.

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.

As the landlord confirmed that they received a copy of the tenant's dispute resolution hearing package sent by the tenant by registered mail on June 12, 2019, I find that the landlord was duly served with this package in accordance with section 89 of the *Act*.

Both parties denied having received written evidence from one another, although they did provide the Residential Tenancy Branch (the RTB) with their respective written submissions. The tenant said that they had not sent their written evidence to the landlord because they had no way of sending written communications to the landlord. Since the landlord acknowledged receipt of the tenant's dispute resolution hearing package at the mailing address identified by the tenant as that of the landlord in the

tenant's application for dispute resolution, I find that the tenant clearly had the landlord's mailing address and could have sent written evidence to the landlord at that address. I also note that the tenant provided their written evidence, but for one page of their tenancy agreement, to the RTB ten days before this hearing. The only written evidence from the tenant that I can consider is the first page of the tenancy agreement between these parties, attached to the original application for dispute resolution.

For the landlord's part, they maintained that they sent the tenant a copy of their 93 page written evidence package on July 11, 2019. Written evidence provided by registered mail would normally be deemed served on the fifth day after its registered mailing, in this case, July 16, 2019., as per section 90 of the *Act*. The landlord did not have a Canada Post Tracking Number to confirm this registered mailing. The landlord's written evidence was received by the RTB six days before this hearing. The tenant said that he had not received this evidence package. The RTB's Rules of Procedure require the service of written evidence to the Applicant, at least seven days prior to the hearing. As this did not occur, as the landlord had no Canada Post Tracking Number to confirm when their written evidence was sent to the tenant and as the tenant testified that they have not received the landlord's written evidence, I have not found that this evidence was served in accordance with the *Act*. I have not considered the landlord's written evidence in reaching my decision regarding the tenant's application.

Issues(s) to be Decided

Is the tenant entitled to a monetary award for losses or other money owed arising out of this tenancy? Should any repairs be ordered? Should any orders be issued with respect to the landlord's right to access the rental unit? Should the tenant be allowed to change the locks to the rental unit? Should any other orders be issued with respect to this tenancy?

Background and Evidence

This tenancy began on February 1, 2017, by way of a one-year fixed term Residential Tenancy Agreement (the Agreement) entered into between the tenant and the tenant's mother, identified as the landlord in the tenant's application, or, as the landlord maintained, the landlord's numbered company. When the initial term of the Agreement expired, the parties signed a new Agreement, but neither party was certain as to whether this was for a new fixed term or was for a month-to-month tenancy. At any

rate, the parties agreed that by now this tenancy has become a month-to-month tenancy.

The parties agreed that the current monthly rent is currently set at \$375.00, payable in advance on the first of each month. The parties agreed that the tenant's monthly rent payments are made directly by the Ministry of Social Development and Poverty Reduction (the Ministry) as shelter assistance to the landlord.

The tenant did not enter into written evidence a copy of a completed Monetary Order Worksheet to support the tenant's application for a monetary award of \$35,000.00. In their application, the tenant requested the maximum monetary award available to an applicant pursuant to the *Act*. This monetary claim was for a range of concerns regarding the tenant's allegations that the landlord or the landlord's representatives have illegally entered the tenant's rental unit, have refused to communicate with the tenant about repair requests, have not undertaken necessary repairs requested by the tenant, as well as a range of interpersonal problems between the tenant, the landlord and the landlord's representative(s). The tenant noted in their application material that the landlord has been involved in repeated calls to the local police, some of which have led to the tenant's placement under observation for periods of time in accordance with the *Mental Health Act*. At the hearing, the tenant said that he has been kidnapped by police, that the landlord has sent a series of "gangsters" to the tenant's rental unit to issue death threats against the tenant, and that the police have ignored or otherwise supported the landlord and the gangsters who have interacted with the tenant with respect to this tenancy. Despite the tenant having signed the Agreement, the tenant said that he never agreed to rent from the landlord and that the landlord has co-operated with human trafficking by strangers who have represented the landlord with respect to this tenancy.

The landlord denied the tenant's allegations. The landlord testified that repairs requested by the tenant are well underway, but had been somewhat delayed by the involvement of an insurance company that paid for at least some portion of the repairs. The tenant agreed that repairs have commenced, but claimed that the floor repairs are still underway.

At the hearing, the parties discussed the tenant's request to have new locks installed in the rental unit. Although the landlord was willing to retain and pay for a locksmith to remove the existing locks and install new ones, the landlord insisted that any such work be performed by a locksmith the landlord selects so as to ensure that the landlord is

provided with a key to the rental unit. The tenant refused to allow a locksmith of the landlord's choosing to perform this work. The tenant said that he would only agree to have the locks replaced if the tenant was the one having the locks replaced. The tenant gave sworn testimony that he would provide the landlord with a copy of the key to the rental unit once the locks were replaced.

Another area of dispute between the parties was the tenant's claim that he had no way of contacting the landlord in the event that work needed to be undertaken or in an emergency situation. The landlord said that communication between the tenant and the landlord had become so strained that they preferred that all such communication related to the tenancy be undertaken through the tenant's social worker. If work needed to be performed in the rental unit or the tenant had a concern the tenant's social worker would be able to make these arrangements between the parties. The tenant objected to this arrangement, noting that the tenant could not be forced to use their social worker as an intermediary in communicating with the landlord. The landlord gave undisputed sworn testimony that the tenant had the landlord's mailing address and email address, although they preferred that contact be through the tenant's social worker who had been helpful in assisting the parties with communications with one another.

Analysis

While I have turned my mind to the tenant's application, the very limited written evidence attached to that application and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the tenant's claim and my findings around each are set out below.

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. 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 of the *Act* 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. In this case, the onus is on the tenant to prove on the balance of probabilities that the landlord or their representatives have contravened the *Act*, the *Regulations* or the Agreement, and that orders should be issued to address these alleged contraventions.

Much of the parties' testimony appeared to be more directed at the family relationship and history between the parties and of little real relevance to the circumstances of this residential tenancy. Both parties had difficulty focussing on residential tenancy matters during this hearing.

During the hearing and despite being asked repeatedly to explain the details of their application and monetary claim, the tenant provide no information of relevance to their application for a monetary award of \$35,000.00. In this regard, the tenant's Monetary Order Worksheet contained only the tenant's name, the address of the rental unit and no monetary amounts identified on the second and most important page of the Worksheet. The only substantive statement contained on this Worksheet was the tenant's statement that "Health, tenant was assaulted and kidnapped and kept in a government insitu" (as in original). Under these circumstances, I dismiss the tenant's application for a monetary award as the tenant has provided almost nothing that would support the issuance of a monetary award of any type.

With respect to the tenant's application for an order requiring repairs of the rental unit, the tenant confirmed that work is underway to repair the flooring of the rental unit. Although it was clear that the tenant believed that other repairs should also be undertaken, the tenant did not provide any details as to what these repairs entailed or whether any written request had been made to the landlord to undertake additional repairs. I dismiss this element of the tenant's application, as the tenant has provided insufficient information to warrant the issuance of an order requiring the landlord to undertake repairs that are not already underway.

It would seem that someone whom the tenant finds objectionable, the landlord's ex-husband has been provided with a copy of the key to access the tenant's rental unit. I heard conflicting evidence as to whether the tenant had actually requested that this person be provided with the key a few years ago, and whether the landlord advised against the tenant's request that the key be provided to the landlord's ex-husband. The tenant denied having made such a request; the landlord gave sworn testimony that the key was only provided to the landlord's ex-husband at the tenant's request and despite the landlord having advised against doing so. While the landlord remained willing to have the locks changed, the landlord expressed reasonable apprehension, given the nature and history of their relationship with the tenant, that the tenant would actually provide the landlord with a copy of the key were an order to be issued to enable the tenant to change the locks. Under these circumstances, I find that the landlord's

proposal to change the locks at the landlord's expense has the best potential to lead to the provision of keys to both the landlord and the tenant.

As such, I find that in the event that the tenant continues to seek a change in the locks to the rental unit that the tenant is to send a written notice to the landlord at the address the tenant identified as the mailing address for the landlord in the tenant's application for dispute resolution. In the event that the landlord receives such a request from the tenant, I order the landlord to retain the services of a locksmith to change the locks to the rental unit, providing the tenant and the landlord with the sole copies of the keys to this rental unit. The landlord is responsible for the costs associated with this changing of the locks to the rental unit and is responsible for making arrangements with the tenant to accommodate the tenant's request for the change of locks to this rental unit.

After considering the tenant's concerns that the tenant is unable to communicate with the landlord, I order that future communications with the landlord are to be accomplished by the tenant's use of the mailing address the tenant used for serving the landlord with a copy of their dispute resolution hearing package. For situations where the tenant needs to provide the landlord with concerns of an urgent nature that cannot wait until the landlord's receipt of mailed correspondence, the tenant is to use the email address that appears at the beginning of this decision. This is the same email address that the tenant has been using in the past for communicating with the landlord.

I dismiss the remainder of the tenant's application.

Conclusion

The tenant's application for a monetary award is dismissed.

I order that the landlord complete the ongoing repairs that have been commenced.

In the event that the landlord receives a written request from the tenant to change the locks for this rental unit, I order the landlord to retain the services of a locksmith to change the locks to the rental unit, providing the tenant and the landlord with the sole copies of the keys to this rental unit. The landlord is responsible for the costs associated with this changing of the locks to the rental unit. The landlord is also responsible for making arrangements with the tenant to accommodate the tenant's request for the change of locks to this rental unit.

I order that future communications between the parties are to be accomplished by the tenant's use of the mailing address the tenant used for serving the landlord with a copy of their dispute resolution hearing package and the landlord's mailing of documents to the tenant at the address of the rental suite. For situations where the tenant needs to provide the landlord with concerns of an urgent nature that cannot wait until the landlord's receipt of mailed correspondence, the tenant is to use the email address that appears at the beginning of this decision.

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: July 22, 2019

Residential Tenancy Branch