



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT LIMITED PARTNERSHIP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, MNDC, FF

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;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed the tenants served the landlord with the notice of hearing package via Canada Post Registered Mail on March 21, 2020. Both parties confirmed the tenant served the landlord with the submitted documentary evidence. Both parties confirmed the landlord served the tenant with the submitted documentary evidence.

During the hearing it was noted that the tenant had submitted her documentary evidence using both her own and the landlord's access codes. Extensive time was spent differentiating the tenants and the landlord's evidence submission. In the end all submission on file by the landlord were from the tenant. No record of the landlord's documentary evidence submission was found.

Both parties also consented to the tenants' application being amended as the tenant had added as a second tenant, her 3 year old daughter who is not a tenant, but an occupant. On this basis, the named tenant, K.M. is deleted.

Section 63 of the Residential Tenancy Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the two parties during the hearing led to a resolution. Specifically, it was agreed as follows:

The tenant agreed to cancel the application for dispute.

The landlord agreed to pay to the tenant \$1,412.26 (equal to 1/3 of 3 months of rent) as compensation for loss of quiet enjoyment due to second hand smoke, which both parties agreed constituted a final and binding resolution of all monetary issues under dispute in this application for dispute resolution. The tenant also agrees to waive any future compensation regarding this issue of second hand smoke.

Both parties agreed to amend the signed tenancy agreement to make the tenancy a month-to-month agreement as of the date of this hearing. Both parties also agreed that the tenant may give notice to end the tenancy as per the Act.

Both parties agreed that the above noted particulars comprised a full and final settlement of all aspects of the dispute arising from their applications for dispute resolution.

The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that the parties understood the nature of this full and final settlement of this matter.

In order to implement the above settlement reached between the parties, I issue a monetary order in the tenant's favour in the amount of \$1,412.26. I deliver this Order to the tenant in support of the above agreement for use in the event that the landlord(s) do not abide by the terms of the above settlement. The tenant is provided with this Order in the above terms and the landlord(s) must be served with a copy of this Order as soon as possible after a failure to comply with the terms of the above settlement agreement. Should the landlord(s) fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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 21, 2020

Residential Tenancy Branch