



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MB + S Ventures Inc
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCT OLC

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; and
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The corporate landlord was represented by its agent (the "landlord").

As both parties were present service was confirmed. The landlord testified that they received the tenant's materials and had uploaded some evidence which was served on the tenant for a separate hearing out of an abundance of caution. I advised the landlord that evidence for another matter would not be reviewed or considered for the present application and parties are required to serve one another with their evidence for each separate application. Based on their testimonies I find the landlord duly served with the tenant's 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 claimed?

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

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

The parties testified that this tenancy began in 2017. The current monthly rent is \$400.00. There have been previous hearings in regards to this tenancy under the file numbers on the first page of this decision. The decision of December 3, 2020 records a settlement agreement between the parties wherein they agree to the following terms:

1. The landlord's right to view the unit with prospective purchasers for the building is restricted to two weekly periods between 12:00 PM and 4:00 PM on Wednesday and Saturday effective immediately;
2. The viewings must be scheduled on 24-hour notice by the landlord to the tenant;
3. All viewings must be spaced 1-hour apart;
4. The landlord must notify the tenant promptly of any cancellations;

The parties agree that there was a showing of the rental property which took place within a week of the settlement decision on a date prior to the date the tenant was informed the showing would take place. The landlord testified that there was a miscommunication leading to the error in scheduling. The parties gave evidence that the landlord's realtor apologized for the error, offered the tenant compensation for the mistake which the tenant refused.

The tenant seeks a monetary award in the amount of \$34,200.00 comprised of;

- the equivalent of one year's rent of \$400.00 for \$4,800.00;
- the equivalent of one year's rent at \$1,200.00 which the tenant believes they will need to pay for future accommodations for \$14,400.00; and
- an amount of \$15,000.00 for what the tenant says is "pain & suffering moving & relocation"

The tenant gave lengthy testimony during the hearing as well as several pages of handwritten submissions. Some of the tenant's claims include " the disrespect shown when my dog passed away. Being intimidated + spoken down to and made to be the one to disallow showings for lack of notice". The tenant submits that their relationship with the landlord encompasses an employer/employee aspect for which they have made a WorkSafeBC claim. The tenant said that they believe they will need to relocate in a different community as the ongoing various litigation will prevent them from finding

accommodations in this community. The tenant describes their relationship with the landlord as highly adversarial and an ongoing campaign of calculated and high-handed harassment.

Analysis

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.

Residential Tenancy Rule of Procedure 6.6 sets out that the onus of proving their claim is on the applicant on a balance of probabilities.

I find the tenant's submissions and position to be so hyperbolic as to lack any credibility and their calculation of losses to be wholly out of proportion with reason or reality. While I accept that there was an instance where the landlord's realtor attended at the rental property on the incorrect date, I do not find a single instance to give rise to a monetary award for loss of quiet enjoyment. As set out in Residential Tenancy Policy Guideline 6 "Temporary discomfort or inconvenience does not constitute a basis for a breach of the entitlement to quiet enjoyment".

I also note that the parties gave evidence that showings are no longer occurring as the rental property has sold. As such, I find no need to issue an order for compliance.

The documentary evidence of the tenant shows some communications to schedule showings in accordance with the settlement agreement. I find little support for the tenant's interpretation of the relationship as one of continued antagonistic harassment. It was evident in both the content and tone of the respective testimonies that the tenant held a level of vitriol and anger with the landlord, accusing them of a multitude of wrongs and character flaws which was not reciprocated by the landlord.

I find the portion of the tenant's claim for future costs of accommodations, relocating or moving from the rental unit to be fanciful suppositions rather than a calculation based on

any evidence or reality. In any event I find that the tenant has failed to establish that any future costs are attributable to the landlord.

Based on the totality of the evidence I find that the tenant has not established any portion of their claim and accordingly dismiss it without leave to reapply.

Conclusion

I dismiss the tenant's application 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: March 29, 2021

Residential Tenancy Branch