



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PCPM Ltd as Agent for Pacific Cove Island
Proper and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC MNDCT

Introduction

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

- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67.

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 primarily represented by its agent (the "landlord").

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and the parties each testified that they were not making any recordings.

As both parties were present service was confirmed. The parties each testified that they received the respective materials and based on their testimonies I find each party duly served in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

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

Is the tenant entitled to a monetary award as claimed?

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.

This periodic tenancy began on November 1, 2016. The current monthly rent is \$938.00 payable on the first of each month. The rental unit is a suit in a multi-unit building with 56 units. There have been several previous hearings for this tenancy under the file numbers on the first page of this decision.

The tenant complains that they have experienced ongoing disturbance from neighboring units below and adjacent to them. The tenant submitted into evidence various complaint letters they have issued to the landlord dating from 2017 regarding occupants of other units and their smoking and noise. The tenant characterizes the other occupants as “bad tenants” who despite these complaints have not curtailed their behaviour nor have their tenancies been ended.

The tenant submits that the landlord has failed to provide the tenant freedom from unreasonable disturbance and seeks a monetary award of \$11,256.00 the equivalent of the full rent for the period of August 2020 to July 2021. The tenant also seeks an order that the landlord comply with the Act, regulations or tenancy agreement by providing them with taxi services to vacate the premises and stay in a hotel of the tenant’s choosing when they are required to vacate the rental unit for several hours during pest control treatment. The tenant submitted into evidence a letter issued to the landlord demanding accommodation in one of several hotels they have chosen, in an upper level suite. The tenant also provides a list of other hotels they deem would be unacceptable as well as writing “No Motels would work.” The tenant testified that this is necessary as pest control services would require them to vacate the rental unit for six to eight hours.

The landlord testified that they have investigated and where appropriate issued warning letters to the other occupants complained of by the tenant. The landlord submits that the rental property does not prohibit smoking and individual tenancy agreements may have restrictions regarding smoking. The landlord submits that they have taken all reasonable measures in response to the tenant’s multiple complaints. The landlord sees no requirement under the Act, regulations or tenancy agreement to provide taxi services and accommodations for tenants who are required to vacate a rental unit for a matter of hours during pest management services.

Analysis

Pursuant to Residential Tenancy Rule of Procedure 6.6 the onus is on the applicant to establish their claim on a balance of probabilities.

The tenant seeks an order that the landlord comply with the Act, regulations or tenancy agreement by providing them taxi service to a hotel and accommodations during the hours that they are requested to vacate the rental unit in order for pest control treatment to occur.

I find that the tenant's request is patently unreasonable and excessive given the nature of the treatment proposed and the short time period they will be required to be absent from the rental unit. I find no portion of the Act, regulations or tenancy agreement that provides that the landlord is required to accommodate the tenant's specific requests. Accordingly, I dismiss this portion of the tenant's application as I find no breach of the Act, regulations or tenancy agreement that warrants an order of compliance.

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.

Taken in its entirety I find that the tenant has failed to meet their evidentiary onus and establish any portion of their claim. I find the tenant's letters of complaint and photographs of other occupants of the building to demonstrate their unreasonable and disproportional response to perceived slights and minor inconveniences. I find the incidents cited in the letters to be generally minor and would not be characterized by unreasonable. I find much of the tenant's complaints to be subjective, hyperbolic and disproportional to the actions of the other occupants of the building.

Taken in its entirety I find the tenant's multiple complaints about such issues as observing unleashed dogs outside of the building or smelling smoke in their third floor unit originating from the ground outside to demonstrate their attempts to find fault with their surroundings and make unreasonable demands of the landlord.

I accept the evidence of the landlord that they have taken reasonable measures in response to the multiple complaints by the tenant. A landlord has the duty to balance a tenant's right to quiet enjoyment with the rights of others in the multi-unit building. I am satisfied that the landlord and their agents have acted reasonably in response to the complaints of the tenant and I find no breach of the Act, regulations or tenancy agreement that would give rise to a monetary award.

Accordingly, I dismiss the tenant's applications in their entirety without leave to reapply.

I note parenthetically that the tenant has taken to photographing other tenants and their suites. I find that such conduct may be seen to be an unreasonable breach of the privacy rights of the other occupants of the rental building and may form the basis of a notice to end tenancy for cause being issued against the tenant. The tenant would be well advised to curtail any behaviour that would reasonably be interpreted as disturbance of others.

Conclusion

The tenant's applications are dismissed in their 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: December 6, 2021

Residential Tenancy Branch