



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT

Introduction

On December 30, 2020, the Tenant made an Application for Dispute Resolution seeking a Monetary Order for compensation pursuant to Section 67 of the *Residential Tenancy Act* (the “Act”).

On January 13, 2021, this Application was originally set down to be heard on May 4, 2021. This Application was subsequently adjourned twice, for reasons set forth in the Interim Decisions dated May 5, 2021 and August 31, 2021. This Application was then set down for a final, reconvened hearing on March 1, 2022 at 1:30 PM.

The Tenant attended the final, reconvened hearing, with M.M. attending as his advocate, and J.C. attending as a witness. Landlord G.P. attended the final, reconvened hearing, with R.P. attending as his agent. At the outset of the hearing, I explained to the parties that as the hearing was a teleconference, none of the parties could see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, to please make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also advised that recording of the hearing was prohibited and they were reminded to refrain from doing so. All parties acknowledged these terms. As well, all parties in attendance provided a solemn affirmation.

As per the Interim Decision dated May 5, 2021, I have accepted the parties’ evidence and will consider it when rendering this Decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Tenant entitled to a Monetary Order for compensation?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on or around April 2019 and that the tenancy ended on or around February 28, 2020 when the Tenant gave up vacant possession of the rental unit. Rent was established at \$400.00 per month and was due on the first day of each month. A security deposit was not paid. A written tenancy agreement was never completed by the parties.

The Tenant advised that he was seeking compensation in the amount of **\$1,500.00** because there were a number of complaints that he had mostly with respect to how he was treated by the Landlord. It should be noted that during the hearings, the Tenant was disorganized, and he often made rambling, discombobulated, sometimes incoherent submissions about a multitude of issues, and it was difficult and time consuming in attempting to pinpoint the Tenant's specific incidents of complaint. As well, it was difficult to fully comprehend the nature of the Tenant's complaints as described. These were primarily the reasons for the number of hearings and the length of time that was required to hear the Tenant's submissions.

As such, the Tenant's submissions have been summarized, to the best of my ability and understanding given the manner with which they were presented. In essence, it appears as if the Tenant's claim is primarily for a loss of quiet enjoyment due to the manner with which he was treated by the Landlord regarding a series of issues pertaining to who he fraternized with, his conduct within the rental unit and with other residents of the building, the sanitary conditions with which he lived in the rental unit, and the Landlord's repeated threats of eviction and disparaging remarks, amongst other issues. He advised that the compensation he is seeking is calculated as six incidents over a period of two and a half weeks, multiplied by \$100.00 ($6 \times 2.5 \times 100 = \$1,500.00$). He referenced his documentary evidence to support his position.

R.P. and G.P. provided submissions with respect to the Tenant's allegations, and they advised of a host of issues that they believe the Tenant engaged in that would have potentially jeopardized his tenancy. They submitted that, among other things, the Tenant was often hostile and made inappropriate, derogatory remarks at the Landlord and other residents and that he was clearly unable to demonstrate that he could cohabitate with people in the building. They referenced the documentary evidence

submitted to support this position. R.P. admitted that giving the Tenant a notice to end his tenancy was a “ruse”, and that it was a mistake to do so.

Analysis

Upon consideration of the testimony before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

Section 28 of the *Act* outlines the Tenant’s right to quiet enjoyment of the rental unit and states that the Tenant has a right to, amongst other things, reasonable privacy and freedom from unreasonable disturbance.

Section 67 of the *Act* allows a Monetary Order to be awarded for damage or loss when a party does not comply with the *Act*.

I find it important to note that when two parties to a dispute provide equally plausible accounts of events or circumstances related to a dispute, the party making the claim has the burden to provide sufficient evidence over and above their testimony to establish their claim. I have considered the parties’ testimonies, their content and demeanour, as well as whether it is consistent with how a reasonable person would behave under circumstances similar to this tenancy.

With respect to the Tenant’s claims for damages, when establishing if monetary compensation is warranted, I find it important to note that Policy Guideline # 16 outlines that when a party is claiming for compensation, “It is up to the party who is claiming compensation to provide evidence to establish that compensation is due”, that “the party who suffered the damage or loss can prove the amount of or value of the damage or loss”, and that “the value of the damage or loss is established by the evidence provided.”

As noted above, the purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. When establishing if monetary compensation is warranted, it is up to the party claiming compensation to provide evidence to establish that compensation is owed. In essence, to determine whether compensation is due, the following four-part test is applied:

- Did the Landlord fail to comply with the *Act*, regulation, or tenancy agreement?
- Did the loss or damage result from this non-compliance?
- Did the Tenant prove the amount of or value of the damage or loss?
- Did the Tenant act reasonably to minimize that damage or loss?

With respect to the Tenant’s claims for compensation in the amount of \$1,500.00, I am not sufficiently satisfied from the totality of the Tenant’s submissions or documentary

evidence that he has adequately corroborated the legitimacy of his claims, on a balance of probabilities. Clearly, this was a contentious tenancy and the parties had difficulties engaging in an appropriate manner with each other. While I am not satisfied of the entirety of the Tenant's claims, I do acknowledge that the Landlord attempted to evict the Tenant under admitted false pretenses. This is the only breach that I have determined to have been sufficiently corroborated by the Tenant.

Given that I am not satisfied that the Tenant has supported the entirety of his claims, I grant the Tenant a monetary award in the amount of **\$250.00** for the incident of the Landlord intentional serving a false notice to end tenancy.

Conclusion

I provide the Tenant with a Monetary Order in the amount of **\$250.00** in the above terms, and the Landlords must be served with **this Order** as soon as possible. Should the Landlords 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 4, 2021

Residential Tenancy Branch