



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MAINSTREET EQUITY CORP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes LRE, OLC, PSF, FF

Introduction

This hearing convened to deal with the tenant's application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act). The tenant applied for an order suspending or setting conditions on the landlord's right to enter the rental unit, an order requiring the landlord to comply with the Act, regulations, or tenancy agreement, an order requiring the landlord to provide for services or facilities required by the tenancy agreement or the Act, and to recover the cost of the filing fee.

The tenant, the tenant's witness, and the on-site landlord's agent/property manager (landlord/property manager) attended, the hearing process was explained, and they were given an opportunity to ask questions about the hearing process. All parties were affirmed, and the witness was excused from the hearing until he was called to testify.

Thereafter the parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me. The parties confirmed receipt of the other's evidence.

I have reviewed all oral, written, and other evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). However, not all details of the parties' respective submissions and or arguments are reproduced in this Decision. Further, only the evidence specifically referenced by the parties and relevant to the issues and findings in this matter are described in this Decision, per Rule 3.6.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Issue(s) to be Decided

Is the tenant entitled to the orders sought as outlined above and recovery of the cost of the filing fee?

Background and Evidence

The evidence showed the tenancy in this multi-unit apartment building began on November 1, 2014, for a monthly rent of \$530. The current monthly rent is \$621.

As to the tenant's application, the tenant wrote the following in the application:

Our landlords "Agent" the property manager, (landlord's agent name) was familiar with the system he knew that police would not respond until 11pm and that bylaw was unreachable and that the City of Chilliwack's official stance on bylaw noise violations within a strata or apartment building were to be dealt with by the landlord and tenant branch. This effectively gave (landlord's agent name) the ability to continually violate our (the residents of (residential property address)) right to quiet enjoyment, contrary to the bylaw. As I had no response from the property manager on July 1st, 2022 I went down to the apartment below me where the sawing and hammering was going on at 9:15pm on that day. I told the contractors that they had to stop working with saws and hammering as it was against the noise bylaw. They told me that (landlord's agent name) told them they could work until 11pm this day. I raised my voice and told them that I would photograph and film them until they left. At this point, (landlord agent name) who lives 2 doors down on the same floor where the work was being done came out of his apartment and walked up to myself and the contractors. I asked (landlord's agent name) to tell the workers that there was a noise bylaw and to stop their work. Instead (landlord's agent name) pushed into me close enough to make me have to step back and yelled " Hit me! Come on hit me, hit me! I stepped back and told him I didn't hit people like him. I felt threatened, being 61 years old with an artificial knee and 5ft.6 inches when confronted with a 6 ft3 or 4 young man. I filed a police report the next day July 2, with the Chilliwack RCMP who agreed that I had been threatened. RCMP File number is dated July 2, 2022 (file number). I have put in an access to information request for a copy but have been notified that this may take a number of months. As I have been threatened I feel it necessary to make this report regarding his behaviour in the event he threatens me again or other tenants. I would like him to be made aware of the noise bylaws and ensure that he is there to protect our rights as tenants. (landlord's agent name) purposefully violated these bylaws and disrupted our quiet enjoyment rights every single time there was a suite vacated and renovated. The threat to myself for attempting

to assert my right to quiet and the rights of my neighbours is unacceptable, criminal, and unprofessional. I have a witness to the entire thing, (witness name), another tenant here at (residential property name) that witnessed the entire thing with the contractors and (landlord name) hostility. The process to make a complaint is not easy for elderly people and those on fixed incomes, as a result many in this apartment complex are fearful of (landlord name) and feel they have nowhere to go to have their concerns met. I can, if required collect and attach many affidavits and testimony as to the unprofessional, cruel and mean treatment (landlord name) routinely exhibits towards the tenants of this building. Please advise or admonish or deal with (landlord's agent name) actions in the appropriate manner. The residents of (residential property name) thank you.

[Reproduced as written except for anonymizing personal information to protect privacy]

In addition to this written statement, the tenant testified to the following. On Canada Day, he walked to the suite being repaired and started banging on the door, telling the contractors to stop working. The tenant said he was going to stand there and yell until the police were called. At this point, the contractor “banged” past him to go to the property manager’s unit, which was close by. The manager told the tenant to stop, at which time the tenant said to the manager, “I don’t hit fags”. The tenant was yelling because “they” would not listen.

The tenant said that since July, the landlord has “basically behaved”.

The tenant requested that in the future, the landlord remind contractors to obey the by-laws so that he would not have to go down and remind people to stop working after 9:00.

As to the tenant’s other request, the tenant wants a dead bolt for his door.

As to the tenant’s request for an order requiring the landlord to provide for services or facilities required by the tenancy agreement or the Act, the tenant requested the name of the contractor that was working on January 1st, 2022, as the landlord refused to give him the name.

Filed as evidence was the application, the written tenancy agreement, and a police business card, with a file number.

Tenant's witness -

The witness, who is a neighbour of the tenant on another floor, testified to the following: The witness also went down to the suite on the first floor the night in question, following the tenant, to make sure nothing happened. The witness confirmed that the tenant stopped by his unit to say he was going to the suite on the first floor. The only yelling came from the contractor, and the contractor made a motion to hit the tenant. The property manager came out in a huff and approached the tenant, brushing past him. The landlord was saying stupid things and threatening. The majority of the threats came from the contractor and everyone was getting mad. The tenant did not hit anyone, but there was a chest to chest bump with the property manager.

Landlord's response

The landlord testified to the following: The agent lives two doors down from the suite being worked on On July 1, 2022. At 9:00 pm, he was called to the suite, finding the tenant yelling and screaming at the contractors. The contractors may have not paid attention to working at 9:00 pm, but it was the tenant who kept poking the landlord. If the police were called, they never talked to him about the situation. The tenant took matters into his own hands without ever contacting the landlord or using the after-hours, or emergency contact numbers to report any problems. The construction stopped by 9:30 pm and the events caused by the tenant were worse than any noise by the contractors.

Filed in evidence were letters from other tenants giving their statements as to the events on July 1, 2022, and letters of complaints about the tenant's behaviour towards them.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

The tenant has the burden of proof to support his application. I find disputed testimony, without anything further is insufficient to meet that burden of proof.

As to the tenant's request for an order requiring the landlord to comply with the Act, regulations, or tenancy agreement, in this case, the tenant confirmed that he took it upon himself to go the other suite being worked on by the landlord's contractors and

begin yelling at them, instructing them to stop working. The tenant said he intended on doing this until the contractors stopped working.

I find this behaviour unreasonable. I find the tenant's own statements confirm that he interfered with the landlord's lawful right to repair and maintain the residential property. The landlord is obligated under section 32 of the Act to provide and maintain the residential property in a state of decoration and repair complying with housing standards.

I find it is not upon tenants to interfere with the landlord's contractors or any work being done around the property, or any part of the landlord's business. If the tenant has issues or complaints, the tenant ought to have notified the landlord, not confront the landlord's contractors by yelling and demanding they stop working. I find the tenant had no right to make this demand and the landlord provided consistent evidence that the tenant never made a complaint about the contractor's noise through the after-hours or emergency contact number. I find the tenant's behaviour of inserting himself into the landlord's business unreasonable.

In addition, I find the testimony of the tenant's witness contradicted the tenant's testimony and evidence. The tenant said he went to the rental unit in question that night, began yelling and his intention was to keep yelling until the contractors stopped working. The witness, who followed the tenant to the other suite, testified that the only person yelling was the contractor.

Further, the witness said there was a "chest-to-chest" bump between the tenant and the property manager, while the tenant asserted he felt threatened by the property manager because of their 9" to 10" height difference.

Finally, the witness said the contractor hit the tenant when the tenant never mentioned this.

Due to the above, I find the tenant and his witness provided contradictory evidence of the other and as a result, I find the tenant's evidence not credible or reliable.

I do not find it logical or believable there could be a chest to chest bump with the 9"-10" height difference. Additionally, the tenant confirmed he used homophobic slurs towards the landlord's agent that night, which I find shows the tenant caused the emotions of that night to be increased. I do not find it believable that anyone would

leave their unit to confront contractors, aided by the other tenant/witness and use slurs would feel threatened. For all these reasons, I do not accept the tenant felt threatened.

I therefore **dismiss** the tenant's application for an order requiring the landlord to comply with the Act, regulations, or tenancy agreement, **without leave to reapply**.

As to the tenant's request for an order suspending or setting conditions on the landlord's right to enter the rental unit, as I did not accept that the tenant felt threatened, I find the tenant submitted insufficient evidence to support this claim. Apart from that, I find the tenant has submitted insufficient evidence that the landlord has illegally attempted to enter the tenant's rental unit. I therefore **dismiss** the tenant's request for this order, **without leave to reapply**.

As to the tenant's request for an order requiring the landlord to provide for services or facilities required by the tenancy agreement or the Act, which was a request for the name of the landlord's contractor, I **dismiss** this claim, **without leave to reapply**. The name of the landlord's contractor is not the business of a tenant or a right under the Act.

As the tenant's application was dismissed, I also **dismiss** the tenant's request for recovery of the filing fee, **without leave to reapply**.

Cautions to the tenant –

I have reviewed letters written by other occupants filed by the landlord in support of their response, which I find, if true, raises serious concerns about the tenant's alleged behaviour. This includes allegations of the tenant using homophobic and racist terms against other tenants and filming them. I also found that the tenant has interfered with the landlord's business. I caution the tenant that if these types of behaviour are true and continue, the landlord may seek to end your tenancy by issuing a One Month Notice to End Tenancy for Cause. This Decision may form a part of the landlord's case should the issue come before an Arbitrator for consideration.

Conclusion

I dismiss the tenant's application, without leave to reapply, due to insufficient evidence.

Cautions to the tenant have been issued.

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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: January 17, 2023

Residential Tenancy Branch