



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding METRO VANCOUVER HOUSING
CORPORATION and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes RPP, OLC

Introduction

On January 9, 2023, the Tenants made an Application for Dispute Resolution seeking a return of their personal property pursuant to Section 65 of the *Residential Tenancy Act* (the “*Act*”) and seeking an Order to comply pursuant to Section 62 of the *Act*.

Both Tenants attended the hearing, and advised that the other Applicants listed on their Application were not Tenants. As such, the Style of Cause on the first page of this Decision was amended to remove these people accordingly.

J.H., S.M., and S.A. attended the hearing as agents for the Landlord. J.H. advised of the correct name of the Landlord, and the Style of Cause on the first page of this Decision was amended to reflect this correction.

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, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited, and they were reminded to refrain from doing so. As well, all parties in attendance provided a solemn affirmation.

Tenant J.W. advised that a separate Notice of Hearing and evidence package was served to each of three named agents for the Landlord by email on January 14, 2023. However, he confirmed that there was no consent in writing between the parties to

exchange documents by email. As well, he then testified that he did not serve their additional, late evidence to the Landlord.

J.H. confirmed that she received the Tenants' Notice of Hearing package by email, but she could not verify if the other agents of the Landlord received those other packages. Regardless, she stated that she was prepared to proceed. As such, I am satisfied that the Landlord was duly served the Tenants' Notice of Hearing package. However, she stated that there was no documentary evidence contained within this email.

J.W. was asked if they submitted any proof that their evidence was included in these hearing packages; however, he could not direct me to any proof that they attached their evidence to these emails. Given that the Tenants did not have any proof of service of this evidence, and given that they did not serve their additional, late evidence to the Landlord, I find it more likely than not that their documentary evidence was never served at all. As such, I have excluded all of the Tenants' evidence and will not consider it when rendering this Decision.

J.H. advised that the Landlord's evidence was served to the Tenants by registered mail on April 20, 2023, and J.W. confirmed that this was received. As this evidence was served to the Tenants pursuant to the timeframe requirements of Rule 3.15 of the Rules, I have accepted this 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

- Are the Tenants entitled to a return of their personal property?
- Are the Tenants entitled to an Order to comply?

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 with Tenant B.W. on November 1, 2014, and that the agreement was amended to include J.W. as a Tenant on May 26, 2016. They also agreed that the rent was currently established at a subsidized amount of \$605.00 per month and that it was due on the first day of each month. As well, a security deposit of \$609.50 was also paid. A copy of the signed tenancy was submitted as documentary evidence for consideration.

In reading the Tenants' Application, it was unclear what remedies they were seeking; however, it was evident that despite them asking for a return of their personal property, this was not a matter that was pertinent as their personal property had never been seized by the Landlord. As such, the Tenants were asked to briefly explain the nature of their Application so that all parties could understand what issues would be addressed.

J.W. advised that it was their belief that their neighbours have been recording the Tenants' activities in the rental unit, since 2017, by using "laser hidden cameras" placed in holes in the rental unit. He requested an Order that these devices be removed, and that the footage of the Tenants and their family be returned to them.

J.H. understood the nature of this claim and was prepared to proceed.

J.W. testified that he wrote a letter to J.H. to inform her of their belief of this "criminal activity" by their neighbours. As well, he suggested that the neighbours have "gadgets" that are "blocking [their] Wi-Fi" reception. He stated that he first discovered holes in walls and closets of the rental unit in 2021, where he believed that the recording devices were placed; however, he stated that he wrote this letter to J.H. in 2019. When he was asked how it was possible that he wrote this letter prior to when he discovered these holes and recording devices, he could not provide an answer, but then stated that this letter was written prior to 2019. He submitted that these "holes" contain "lasers with cameras" that are watching them, and that these cameras are not visible "to the naked eye". He stated that the "holes" in the bathroom connect to another unit in the building.

He then advised that he was first informed that the activities in the rental unit were being recorded when he received a "tip" from a "valuable source". He testified that this source had personally witnessed these videos on the "dark web". However, he would not reveal the identity of this "valuable source", this person did not attend the hearing to provide

any direct testimony of what was allegedly witnessed, and there was no written statement from this person that was provided as documentary evidence to corroborate any of J.W.'s testimony.

He testified that him and B.W. would see what looked like a "thread coming out of the holes, and then vanish." He advised that in 2020, he "got a machine" which was able to detect hidden cameras and electronic equipment, and when utilized, this machine "hit the nail on the head" as it would emit a ringing sound when it would detect something. However, when he was asked to elaborate on specifically what this device was, he stated that he would prefer to "keep [his] sources secret". The Tenants did not submit any documentary evidence to demonstrate what this particular device was, nor did they provide any results confirming what this device allegedly detected.

He then stated that after he raised these concerns to the Landlord, three agents for the Landlord inspected the rental unit, and he pointed to the corners where he believed there were recording devices. He submitted that they conducted an investigation, that they took pictures of the rental unit, and that it was concluded that there was no evidence discovered of any recording devices behind the walls. He advised that he later brought this issue to J.H.'s attention again, but there was no response other than her telling him to contact the police regarding this matter.

He testified that he contacted the police on January 28, 2022, that they attended the rental unit to conduct an investigation, that this investigation is still ongoing, and that he has received no updates from the police about their allegations since. However, he claimed that he observed neighbours "moving things quickly" in their units, that the neighbours were "bringing in big boards" to complete repairs, and that the Landlord was "busy fixing things" in other units in the building. While not explicitly stipulated, I can reasonably infer that J.W. was attempting to suggest that it was his belief that these other neighbours, and the Landlord, were trying to cover up any evidence of electronic devices in the walls.

Throughout his testimony, he would continually refer to the Landlord as belonging to a "white supremacist group" that was part of a "criminal organization" that was involved in "organized crime".

J.H. advised that J.W. sent the Landlord an email in April 2021 regarding his concerns about cyber thieves, drug dealers, and gang activity, amongst other things. She stated that she informed him that he should contact the police regarding these matters. She

testified that the Landlord sent five representatives to conduct an inspection of the rental unit on January 21, 2022, that J.W. was “vigilant” in his allegations that the neighbours and contractors were “tampering” with the rental unit, and she stated that he would “point out things that were not there”. However, she submitted that he would point out his belief that these pieces of electronic equipment were behind the walls by using a “device”.

She also advised that they checked other units in the building, and found no evidence of holes in those units leading to the rental unit. She then testified that J.W. made additional complaints in May 2022 where he would blame contractors of installing recording devices.

S.A. advised that the Landlord took the Tenants’ allegations seriously and conducted a structural investigation of the rental unit in June 2022. He referenced the report that was submitted as documentary evidence to support the Landlord’s position that the Tenants’ complaints were investigated, and subsequently determined to be unsubstantiated.

J.W. asked J.H. if they inspected the rental unit, if they inspected other units in the building, and if they took pictures of those other units. She confirmed that the Landlord did all of these things. He then questioned whether the Landlord checked a closet of an adjoining unit, and J.H. also confirmed that this was done. When he was asked what the relevance of these questions were, he stated that the other unit’s closet is where cameras are being fed through to bathroom of the rental unit. However, he did not have any evidence of this other than to claim that his detector “device” would ring on his side of the rental unit. When he was asked how he knew that this camera was being allegedly fed through the closet of the other unit, he acknowledged that he had never been in this other unit to witness this himself, but his “valuable source” had been, and this person advised him of what was observed. He then stated that the “evidence is in the walls”.

Analysis

Upon consideration of the evidence 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.

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. In addition, given the contradictory testimony and positions of the parties, I may turn to a determination of credibility. 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.

Considered in its totality, I find J.W. to be a less credible witness than any of the Landlord's representatives. Firstly, I note that he would continually provide inconsistent and contradictory testimony for when they first discovered the alleged presence of "electronic devices". Given that he could not provide any definitive or reliable testimony on the timeline of this "discovery", I find that this causes me to question the legitimacy of his testimony regarding this matter.

Secondly, I note that J.W. advised that they first discovered that they were allegedly being recorded when he received a "tip" from a "valuable source". However, when he was asked for this person's identity, he refused to provide it. While the specific identity of this person is not important, the fact that he would immediately refuse to provide any other information about this person, other than being a "valuable source", causes me to doubt the reliability of J.W.'s testimony. Furthermore, the Tenants did not elect to have this "valuable source" attend as a witness to provide first-hand testimony that would corroborate the authenticity of J.W.'s testimony, nor did they provide a written statement from this person. Given that I am already doubtful of the legitimacy of J.W.'s testimony, I find that this lack of supporting evidence, and obvious reticence from J.W. to provide any additional information, further causes me to doubt the credibility of J.W.

Thirdly, I note that J.W. alleged that he acquired some sort of "machine" that was able to detect hidden cameras and electronic equipment behind the walls that would confirm his suspicions of the existence of these electronic devices. However, when he was asked to describe this machine and explain what it was, he again refused to reveal any information and stated that he would prefer to "keep [his] sources secret". In my view, it is not clear to me why J.W. would not explain what this specific instrument was, or what it was designed to do. Moreover, the Tenants did not submit any documentary evidence to demonstrate what this machine was designed for, nor did they submit any documentary evidence of any results from this machine. As such, I am not persuaded that if the Tenants truly utilized some sort of "machine", that this was a device that was even designed to detect whatever it was that the Tenants alleged existed anyways.

When reviewing the testimony of J.W., it is evident that he was intentionally withholding information for some unknown reason. As such, I give no weight to his testimony on the whole. Based on the above doubts, I find it reasonable to conclude that his insistence on being vague, or withholding crucial information that could even remotely support his submissions, is more indicative that his “valuable source” does not in fact exist. As well, I find it more likely than not that if he did use some sort of “machine”, that it was not even designed to detect whatever devices he claims are in the rental unit.

In assessing the totality of the evidence before me, I do not find J.W.’s testimony to be logical, persuasive, or compelling in supporting his claims that there is the presence of recording devices in the walls of the rental unit. Moreover, given that there was no documentary evidence submitted to corroborate any of the Tenants’ allegations, I am satisfied that J.W.’s testimony is not credible.

Conclusion

Based on the above, I dismiss the Tenants’ Application in full, without leave to reapply, in its entirety.

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: May 10, 2023

Residential Tenancy Branch