Dispute Resolution Services

DECISION

Dispute Codes:

CNL, MNDC, MNR, OLC, ERP, RP, and FF

Introduction

This hearing was convened in response to an Application for Dispute Resolution, in which the Tenant applied to set aside a Notice to End Tenancy; for a monetary Order for money owed or compensation for damage or loss; for an Order requiring the Landlord to make repairs to the rental unit; for an Order requiring the Landlord to comply with the *Residential Tenancy Act (Act)* or the tenancy agreement; and to recover the fee for filing this Application for Dispute Resolution.

At the hearing the Tenant withdrew the application to set aside a Notice to End Tenancy; for an Order requiring the Landlord to make repairs to the rental unit; and for an Order requiring the Landlord to comply with the *Residential Tenancy Act (Act)* or the tenancy agreement, as the Tenant has vacated the rental unit.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

The Tenant submitted documents to the Residential Tenancy Branch, copies of which were served to the Landlord. The Landlord acknowledged receipt of the Tenant's evidence and it was accepted as evidence for these proceedings.

A witness for the Landlord dialed into the teleconference at the start of the hearing. The witness was advised that he could not participate in the teleconference until his testimony was required, pursuant to rule 11.11. Prior to the conclusion of the teleconference the Landlord was asked if he wished to call this witness and he advised that he did not believe it was necessary.

At the outset of the teleconference the Telus Audio Console showed a third, unidentified party had dialed into the teleconference. This party refused, or was unable, to identify themselves after being repeatedly asked to identify themselves. The party was advised to either identify themselves or exit the teleconference, although I do not know if the party was able to hear these instructions. The Tenant stated that she was not expecting a witness to attend the hearing. The male Landlord stated that the caller may be the former owner of the rental unit. After many attempts to have the party identify

themselves I placed the party in the "hold" mode, which prevented the party from hearing the proceedings.

Issue(s) to be Decided

The issues to be decided are whether the Tenant is entitled to financial compensation and to recover the cost of filing this Application for Dispute Resolution.

Background and Evidence

The Tenant stated that this tenancy began on August 15, 2012 and that this landlord became her landlord on July 16, 2012. The male Landlord stated that he does not know when the tenancy began but he agrees he purchased the property on July 16, 2012.

The Tenant stated that she was required to pay monthly rent by the first day of each month. The Landlord agreed that the Tenant was required to pay monthly rent of $500.00, although he does not know when the rent was due.

The Tenant stated that on July 09, 2012 the former landlord's mother-in-law served her with a Two Month Notice to End Tenancy for Landlord's Use of Property, which declared that she must vacate the rental unit by August 31, 2012. The male Landlord stated that he understands the Tenant was served with a Two Month Notice to End Tenancy for Landlord's Use of Property, although he does not know the details of the Notice.

The Landlord and the Tenant agree that the Tenant did not pay rent for July or August of 2012. The Tenant stated that she vacated the rental unit on August 05, 2012 and the male Landlord stated that he did not realize she had vacated unit August 15, 2012. The Landlord and the Tenant agree that she did not give the Landlord any notice of her intent to vacate the rental unit.

The Landlord and the Tenant agree that the Tenant did not provide the Landlord with a forwarding address, although she verbally provided one at this hearing. The Tenant has not applied for the return of her security deposit.

The Tenant stated that on July 25, 2012 water leaked through her ceiling and damaged her bed. She stated that she informed the Landlord's wife of the problem shortly after she discovered the leak. The Tenant is seeking compensation for replacing her mattress and laundering her bedding.

The male Landlord stated that the washing machine leaked, that he was not aware of a problem with the machine prior to the leak, and that the machine has been repaired.

The Tenant stated that she had to take time off work to prepare for these proceedings, for which she is seeking compensation of $120.00.

The Tenant is seeking compensation for loss of quiet enjoyment arising from her former landlord's failure to properly maintain the rental unit.

The Tenant is seeking to collect the $1,500.00 that had been previously offered to her as a settlement in this matter. The Tenant agreed that she did not accept this settlement offer. As the Tenant did not accept this settlement offer and she proceeded with an Application for Dispute Resolution, she was advised that I do not have the authority to enforce the settlement offer.

Analysis

Section 51(1) of the *Act* stipulates that a tenant who receives a notice to end a tenancy under section 49 *[landlord's use of property]* is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement. On the basis of the undisputed evidence presented at the hearing, I find that the Tenant did receive a notice to end a tenancy pursuant to section 49 of the *Act* and that she is, therefore, entitled to compensation in the amount of $500.00, which is the equivalent of one month's rent.

On the basis of the undisputed evidence I find that the Tenant did not pay rent for June of 2012 and that she has therefore been properly compensated pursuant to section 51(1) of the *Act*. I have made no determination on whether the Tenant is obligated to pay rent for August of 2012, as that matter is not an issue in dispute at this hearing.

Section 63 of the *Act* authorizes me to order a landlord to pay money to a tenant if the tenant suffers a loss as a result of the landlord failing to comply with the *Act* or tenancy agreement. On the basis of the undisputed evidence presented at the hearing, I find that a washing machine malfunctioned which caused water to leak into the rental unit. In the absence of evidence that shows the washing machine malfunctioned as a result of the Landlord's actions or neglect, I cannot conclude that the leak resulted from the Landlord failing to comply with the *Act*.   As it has not been established that the leak resulted from the Landlord failing to comply with the *Act,* I dismiss the Tenant's application for compensation for any losses arising from the leak.

The dispute resolution process allows an Applicant to claim for compensation or loss as the result of a breach of *Act*. With the exception of compensation for filing the Application for Dispute Resolution, the *Act* does not allow an Applicant to claim compensation for costs associated with participating in the dispute resolution process. I therefore dismiss the Tenant's claim for compensation for lost wages resulting from her need to prepare for these proceedings.

I find that the new landlord is not responsible for the manner in which the former landlord maintained the rental unit and I dismiss the Tenant's claim for compensation for loss of quiet enjoyment.

Conclusion

I find that the Tenant has failed to establish a monetary claim. I therefore dismiss her application to recover the cost of filing this Application for Dispute Resolution.

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: August 23, 2012.

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Residential Tenancy Branch