



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Swedish Canadian Manor Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC OLC

Introduction

This hearing dealt with the tenant's application for monetary compensation and an order that the landlord comply with the Act, regulation or tenancy agreement. The tenant and four agents for the landlord participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. I have reviewed all testimony and other evidence. 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 monetary compensation as claimed?
Should I order the landlord to comply with the Act, regulation or tenancy agreement?

Background and Evidence

The tenant has lived in the rental unit for approximately ten and a half years. The rental unit is an apartment located on the second floor of a multi-unit complex.

The tenant stated that she has been dealing with an ongoing situation involving cigarette smoke coming into her unit and making her feel ill. The tenant stated that when the smoke comes into her unit, especially her bedroom, she starts sneezing and cannot sleep in her bedroom, and now her health is at issue.

The tenant stated that she had to purchase several items to attempt to deal with the smoke, including door guards, HEPA fans and a laptop computer so that she could use her computer in a different part of her apartment to attempt to avoid the worst of the smoke. The tenant has claimed a total of \$738.43 in compensation for these items.

The tenant also seeks an order that the landlord comply with the Act to ensure the tenant's peaceful enjoyment of her rental unit, free from constant smoke aggravation.

The landlord stated that in response to the tenant's complaints, they have inspected the tenant's unit numerous times and found no smell of smoke. The landlord has had their maintenance staff fill all holes to attempt to block any potential smoke access to the tenant's unit. The landlord is unsure as to how smoke is getting into the unit. The tenants in the building who are permitted to smoke must do so either in their unit or outside the building at least 7.5 metres away from the building, not on the patio.

Analysis

I find that the tenant is not entitled to monetary compensation as claimed, and it is not necessary to order the landlord to comply with the Act. I accept the evidence of the landlord that they have attempted to address the tenant's concerns on numerous occasions, and they have been unable to detect any possible source of smoke entering the tenant's unit. The tenant chose to purchase the items she did, and I find she is not entitled to compensation for those items, as she did not have the landlord's authorization to purchase those items to address the smoke problem, and particularly as there is insufficient evidence of smoke or a smell of smoke in the tenant's unit. I do not find that the landlord has breached the Act, and therefore it is not necessary to order the landlord to comply with the Act.

Conclusion

The application of the tenant is dismissed.

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: October 8, 2013

Residential Tenancy Branch

