



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes LAT, MNDC, OLC

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the landlord on February 23, 2015. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to a monetary order for the reduced value of the tenancy and if so how much?
- b. Whether the tenant is entitled to an order authorizing the tenant to change the locks?
- c. Whether the tenant is entitled to an order that the landlord comply with the Act, Regulations, or tenancy agreement?

Background and Evidence

The tenancy began on August 14, 2012. The tenancy agreement provided that the tenant(s) would pay rent of \$500 per month payable in advance on the first day of each month. The tenant(s) paid a security deposit of \$250 at the start of the tenancy.

The tenant testified that on February 21, 2015 he returned to his rental unit and witnessed the landlord showing the owner of the rental property a video of the inside of his rental unit. He then went to his rental unit and discovered the lock to his front door had been broken a painting had fallen off the wall shattering the glass on the floor.

The tenant testified the landlord is often intoxicated, and has often harassed and belittled him over for a lengthy period of time. The landlord previously broke a lock to his door which he had to replace.

The landlord denies the allegation. He testified he never broke the tenant's lock or door. He acknowledged that he was viewing a video when the tenant returned in February but the video was that of the owner of the building. He further testified the lock is the same that had been there for a long period of time. He also testified that in 2013 he received a complaint from the tenant's neighbour that there was a banging in the tenant's unit but the tenant was not responding. The landlord knocked on the door but the tenant did not respond. He broke the lock to permit the para medics access as the tenant was in a medical emergency. The landlord did not charge the tenant for this damage. The landlord testified the tenant is paranoid.

Analysis:

The applicant has the burden of proof to establish his claim on a balance of probabilities. The tenant failed to prove the landlord broke his lock or door. He did not witness the door being damaged nor did he provide evidence from another resident of the landlord damaging the door. He assumed the landlord had damaged the door because he thought the landlord was showing the owner a video of the inside of his

rental unit. The landlord explanation that he was viewing the owner's video of an unrelated matter is equally reasonable. The tenant failed to produce receipts which would prove the he suffered a loss repairing the door. As a result I determined the tenant failed to prove his claim and according, the claim for a monetary order is dismissed.

I dismissed the tenant's claim for an order that the tenant be permitted to change the locks to the rental unit for the following reasons:

- The tenant failed to prove the landlord illegally broke his door.
- The tenant acknowledged he is seriously ill. In the past the landlord needed to enter the rental unit to permit para medics access as the tenant was incapacitated.

The tenant testified the landlord has harassed and belittled him. The landlord denies this. I determined the tenant failed to present sufficient evidence to establish this claim. As a result I dismissed the claim of the tenant for an order that the landlord comply with the Act, Regulations and tenancy agreement.

I determined it was appropriate to point out relevant provisions of the Act and Policy Guidelines. Section 28 of the Residential Tenancy Act which provides as follows:

Protection of tenant's right to quiet enjoyment

28 A tenant is entitled to quiet enjoyment including, but not limited to, rights to the following:

- (a) reasonable privacy;
- (b) freedom from unreasonable disturbance;
- (c) exclusive possession of the rental unit subject only to the landlord's right to enter the rental unit in accordance with section 29 [*landlord's right to enter rental unit restricted*];
- (d) use of common areas for reasonable and lawful purposes, free from significant interference.

Also Policy Guideline #6 includes the following statement:

Harassment

Harassment is defined in the Dictionary of Canadian Law as “engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.” As such, what is commonly referred to as harassment of a tenant by a landlord may well constitute a breach of the covenant of quiet enjoyment. There are a number of other definitions, however all reflect the element of ongoing or repeated activity by the harasser.

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: March 23, 2015

Residential Tenancy Branch

