

DECISION AND ORDER

**IN THE SMALL CLAIMS COURT OF NOVA SCOTIA
Cite as: Parsons v. 500 Ventures Ltd., 2004 NSSM 45**

BETWEEN:

Name: PORTIA A. PARSONS

- APPELLANT

Name: 500 VENTURES LTD.

- RESPONDENT

DATE OF HEARING: May 31, 2004

Revised Decision: The text of the original decision has been revised to remove addresses and phone numbers of the parties on August 23, 2007.

DECISION

- [1] Portia-Ann Parsons appeals a decision of the Director of Residential Tenancies refusing to set aside a notice to quit from her landlord, 500 Ventures Ltd. Ms. Parsons appeared in person accompanied by two Dalhousie Legal Aid students, Megan Leslie and Zureen Kazmi. Gary Saunders appeared on behalf of 500 Ventures.
- [2] Ms. Parsons moved into the premises on February 1, 2000. She has been a tenant for over four years under a month to month tenancy. She is single and has a young son. She wants very much to remain in her apartment. After she received her notice, she begged the landlord to withdraw the notice. The landlord refused.
- [3] Ms. Parsons complained in December, 2003 and into the New Year, of the flooring and of mildew in her apartment. She linked the condition of the flooring in her apartment to the asthma her son was experiencing. The

landlord did not agree with the complaints, and some ill-feeling developed between Ms. Parsons and Mr. Saunders. The landlord did replace some carpet.

- [4] On February 26 2004, the landlord gave Ms. Parsons a three month notice to quit effective May 31, 2004. Ms. Parsons alleges this notice was given to her in retaliation for her complaints about the premises. She asks that the notice be set aside under section 20 of the *Residential Tenancies Act*. It provides:

The Director or a Small Claims Court may refuse to exercise, in favour of a landlord, the powers or authorities under this Act or may set aside a notice to quit if the Director or Small Claims Court is of the opinion that a landlord has acted in retaliation for a tenant attempting to secure or enforce the tenants rights under this Act or the *Rent Review Act*. R.S., c. 401, s. 20; 1997, c. 7, s. 9.

Statutory Condition 1 under the Act, Condition of Premises, provides:

The landlord shall keep the premises in a good state of repair and fit for habitation during the tenancy and shall comply with any statutory enactment or law respecting standards of health, safety or housing.

- [5] A tenant, in my view, has a right under the Act to have premises that are maintained in a good state of repair and fit for habitation. Her first option will be to bring her concerns to the attention of the landlord. If the landlord does not respond or does not agree, then the Act provides a process for resolving the issue.
- [6] The landlord in this case, however, during the dispute, gave Ms. Parsons her notice. The coincidence of Ms. Parson's asserting her right under the Act and the landlord's notice to quit implies retaliation. I asked Mr. Saunders repeatedly why the landlord had given notice. His primary response was that the landlord had a right to do so under the Act without reason. He gave no evidence of failure to pay rent, the tenant's disruption of the building, or any other of the usual reasons why landlords give tenants notice. Secondly, he explained that the tenant's complaints were mistaken or unreasonable. He worried about Ms. Parson's complaints escalating and that addressing them might increase the expectations of other tenants for improvements. I found his explanations unsatisfactory.

Furthermore, his explanations relate to the complaints themselves and this reinforces the idea that the notice was a response to them.

- [7] I am satisfied that the landlord in this case gave Ms. Parsons notice because she asserted her right to properly maintained and habitable premises by complaining to the landlord. I do not, in my view, have to determine in this case whether the complaints were well founded. The tenant does have a right to assert her complaint. I am satisfied, however, that Ms. Parsons did complain in good faith.

ORDER

- [8] I set aside the notice to quit the landlord, 500 Ventures Ltd., has given the tenant Portia-Ann Parsons dated February 26, 2004 for vacant possession on May 31, 2004.

Dated at Halifax, Nova Scotia
this 2nd day of June, 2004.

J. WALTER THOMPSON, Q.C.
ADJUDICATOR

Original	Court File
Copy	Claimants(s)
Copy	Defendant(s)