



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNDC

Introduction

On January 4, 2017, the Tenant applied for dispute resolution seeking money owed or compensation for damage or loss under the *Residential Tenancy Act* (“the Act”), regulation, or tenancy agreement.

The matter was scheduled as a teleconference hearing. Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The evidence was reviewed and confirmed received by each party. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Is the Tenant entitled to compensation for damage or loss?

Background and Evidence

The parties testified that the tenancy began on March 1, 2016, and is currently a month to month tenancy. Rent in the amount of \$1,175.00 is due on the first day of each month. A security deposit of \$587.50 was paid by the Tenant to the Landlord.

The Tenant is seeking compensation in the amount of \$3,575.00 which is the amount of three months’ rent under the tenancy agreement.

The Tenant submitted that due to a notice to end tenancy that she received from the Landlord, and due to an issue where the lock to her unit was changed, she is seeking compensation for a loss of peaceful enjoyment of the property.

The Tenant testified that she received a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities in August 2016, ("the 10 Day Notice"). She testified that the 10 Day Notice was issued in error because she had provided the Landlord with post-dated cheques for the rent. She testified that the Landlord does not issue rent receipts.

The Tenant testified that ever since she received the 10 Day Notice she has not felt comfortable living there. She testified that upon receiving the 10 Day Notice she immediately called the Landlord and left a message. She testified that the Landlord found the post-dated cheque and sent her an apology in a text message.

The Tenant testified that the Landlord notified her that her lock was being changed. She states that she expressed concern to the Landlord about changing the locks but did not ask the Landlord to mail her the new key.

The Tenant testified that she was working out of town and returned to her rental unit on December 23, 2016. She testified that she did not have the keys to the building and another occupant let her inside.

She testified that she left a set of keys with a friend to check the mail. She testified that when she returned she could not enter her unit so she contacted the Landlord who attended the property and let her into her unit. She testified that she was given other keys the following day.

The Tenant submitted that she feels entitled to 3 months' rent in compensation for receiving the 10 Day Notice, and because the Landlord changed her locks and she could not get into her unit on December 23, 2016. The Tenant testified that she does not feel respected or valued by the Landlord.

In response, the Landlord testified that rent receipts are not issued to Tenants who pay the rent by cheque. He acknowledged that a mistake was made and a 10 Day Notice was issued in error. He testified that a written apology letter was provided to the Tenant.

The Landlord testified that there was an inspection of the property being conducted by the city. The Landlord discovered that the Tenant's unit was not on the Landlord's master key. The Landlord notified the Tenant and arranged to have the lock changed and arranged to leave the key with the Tenant's friend.

The Landlord testified that the Tenant's friend left the property and returned the keys to the Landlord.

The Landlord submitted that it is unfortunate that the Tenant is upset, and that the Landlord did not mean to cause any upset.

The Landlord testified that he called the Tenant back within 8 minutes of receiving the Tenants phone call, and was at the building to give her the keys within 15 minutes.

The Landlord submitted that the Tenant has not suffered any financial loss and the Tenant has been provided with two sets of keys.

Analysis

Under section 29 of the Act a Landlord has a right to enter a rental unit with proper notice or if an emergency exists and the entry is necessary to protect life or property.

Section 31 of the Act states that a Landlord must not change locks or other means that give access to residential property unless the Landlord provides each Tenant with new keys or other means that give access to the residential property.

The Residential Tenancy Branch Policy Guideline #16 Compensation for Damage or Loss addresses the criteria for awarding compensation. The Guideline states:

A landlord or tenant who does not comply with the Act, the regulations or their tenancy agreement must compensate the affected party for the resulting damage or loss; and the party who claims compensation must do whatever is reasonable to minimize the damage or loss.

The purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. It is up to the party who is claiming compensation to provide evidence to establish that compensation is due. In order to determine whether compensation is due, the arbitrator may determine whether:

- *a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;*
- *loss or damage has resulted from this non-compliance;*
- *the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and*
- *the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.*

An arbitrator may award monetary compensation only as permitted by the Act or the common law. In situations where there has been damage or loss with respect to property, money or services, the value of the damage or loss is established by the evidence provided.

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I find that the Landlord is entitled to have a key to the Tenant's rental unit for legitimate purposes and for emergency situations. The Landlord found that the master key did not work on the Tenants lock and took reasonable steps to notify the Tenant and change the lock.

I accept the Landlord's testimony that he responded to the Tenants phone call on December 23, 2016, within 8 minutes and was at the rental property within 15 minutes to let the Tenant into her unit and provide her with keys.

Based on the evidence before me, I find that the Landlord did not breach section 31 of the Act. In addition, while I acknowledge that the Landlord made a mistake in issuing the Tenant a 10 Day Notice, the Landlord issued a written apology two days later. I find that the issuance of the 10 Day Notice and the apology occurred in such a short period of time that it was not ongoing or substantial interference and did not deprive the Tenant of quiet enjoyment of the property. I find that the Tenant did not establish a breach of the Act, a loss, or a reasonable value of any loss.

I find that the Tenant's monetary claim for \$3,575.00 is not a reasonable amount and the claim is dismissed in its entirety.

Conclusion

The Tenant's claim for compensation for a breach of the Act and a loss of quiet enjoyment of the property is not successful and 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: July 4, 2017

Residential Tenancy Branch