



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, RR, FFT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both parties were represented at the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The corporate landlord was represented by its agent AB (the "landlord").

As both parties were present service of documents was confirmed. Both parties testified that they were served with the other's materials. Based on the undisputed testimonies I find that the landlord was served with the tenant's application and evidence and the tenant served with the landlord's evidence in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Is the tenant entitled to a monetary award as claimed? Is the tenant entitled to a past rent reduction for services or facilities that were not provided? Is the tenant entitled to recover the filing fee for this application from the landlord?

Background and Evidence

The parties agreed on the following facts. This tenancy began in March, 2017 and ended in February, 2018. The monthly rent was \$1,400.00. The rental unit is a two-bathroom suite. The rental unit was occupied by the tenant and her family.

The tenant submits that during the tenancy there were various issues with the rental unit condition requiring repairs. The tenant said that she communicated with the landlord's agent about the need for repairs but the landlord did not take action in a reasonable amount of time. The tenant provided copies of the email correspondence into written evidence. The tenant said that the issues requiring repairs included the stove handle, towel bar, shower drain in one of the bathrooms, and dryer vent. The tenant testified that one of the two bathrooms in the rental unit was unusable for the full month of August, 2017.

The landlord gave evidence that the tenant was never authorized to perform repairs by the landlord. The landlord said that when the issues were reported to the landlord the tenant did not describe them as serious issues the way she presents them in the current application. The landlord submits that when the tenant reported the issues the landlord scheduled repairs in due course but the tenant proceeded to arrange for repairs without authorization as they did not agree with the landlord's timeframe.

Analysis

Section 67 of the *Act* allows me to issue a monetary award for loss resulting from a party violating the *Act*, regulations or a tenancy agreement. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. The claimant also has a duty to take reasonable steps to mitigate their loss.

Both parties submitted into written evidence copies of the correspondence throughout the tenancy. The tenant submits that the landlord failed to take reasonable action when repairs were required. The landlord submits that repairs were undertaken in a reasonable time. The landlord also submits that the tenant did not report that they were unable to use the second bathroom until August 30, 2017 at which point the landlord attended on site within that week.

I find that the tenant has not met their burden of proof in regards to their claim for a monetary award. Based on the documentary evidence of the correspondence between the parties I find that the landlord did arrange for tradespeople to attend to the repairs in the rental unit in a reasonable time. The tenant may have felt that the repairs were not completed promptly enough and they suffered as a result. However, I find that there is insufficient evidence to find that the landlord was so tardy or negligent in their response

that they were in breach of the Act, regulations or tenancy agreement giving rise to a monetary award. I find that any costs incurred for repairs by the tenant were not a result of the landlord's violation and consequently not a loss that gives rise to a claim for damages.

Similarly, I find that there is insufficient evidence in support of the tenant's claim for a retroactive rent reduction. The tenant testified that they were unable to use the second bathroom for a period of a month but I find that there is little documentary evidence in support of this statement. The initial email reporting the issue on August 1, 2017 simply lists the drainage as one of multiple issues with the rental unit. It is not until the email of August 30, 2017 that the tenant states that they were unable to use the second bathroom during that month. I find that there is insufficient evidence to support a rent reduction. Consequently, I dismiss the tenant's application.

As the tenant's application was not successful the tenant is not entitled to recover the filing fee.

Conclusion

The tenant's application is dismissed without leave to reapply.

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: April 30, 2018

Residential Tenancy Branch