



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RR, FFT

Introduction

On September 30, 2018, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting a reduction of rent for services, and to recover the cost of the filing fee. The matter was set for a participatory hearing via conference call.

The Landlords and Tenant attended the hearing and provided affirmed testimony. They were provided the opportunity to present their relevant oral, written and documentary evidence and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before me.

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.

Preliminary Matter

The Tenant stated that she applied for a reduction of rent; however, the tenancy has ended, and she is no longer occupying the rental unit or paying rent to the Landlords. The Tenant requested to amend her Application to a request for a Monetary Order versus a reduction in rent.

I consulted with the Landlords and they stated that they expected that this hearing would be dealing with the Tenant’s request for compensation for caring for the backyard and that it may have to be addressed with a Monetary Order versus a reduction in rent.

In accordance with Section 64(3) of the Act and with the consent of the Landlords, I have amended the Tenant’s Application by replacing the request for a rent reduction with a request for a Monetary Order for compensation under the Act.

Section 63 of the Act allows an Arbitrator to assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a Decision and include an Order. Accordingly, I attempted to assist the parties to resolve this dispute by helping them negotiate terms for a Settlement Agreement with the input from both parties. The parties could not find consensus on the terms of a Settlement Agreement; therefore, the following testimony and evidence was heard, and a Decision made by myself (the Arbitrator).

Issues to be Decided

Should the Tenant receive a Monetary Order for compensation for losses, in accordance with Section 67 of the Act?

Should the Tenant be compensated for the cost of the filing fee, in accordance with Section 67 of the Act?

Background and Evidence

The Tenant and the Landlords agreed on the following terms of the tenancy:

The nine-month, fixed term tenancy began on November 15, 2015 and continued on as a month-to-month tenancy after August 2016. The monthly rent was \$1,872.00 and due on the first of the month. The Landlords collected a security deposit of \$900.00. The Tenancy Agreement contained an addendum that included a term that the Landlord would provide a professional landscaper to mow the grass and provide yard maintenance.

The Tenant testified that she ran a daycare centre on the residential property. In 2016, she negotiated with the Landlords for her (the Tenant) to mow the backyard rather than have the contractor do it as the Tenant would always have toys scattered in the backyard and it would be more convenient if the Tenant were to do the mowing on her own time. The Landlords agreed and indicated that the Tenant would be compensated for her efforts. No formal agreement was made, nor was there an amount of compensation discussed or written down.

In September 2016, the Tenant approached the Landlords and requested to deduct \$100.00 from her October rent in compensation for the mowing of the lawn. The Landlords stated that their maintenance budget allowed for a larger amount of compensation and they provided the Tenant with a rent reduction of \$600.00.

The Tenant testified that she continued to take care of the backyard throughout 2017; however, the Landlords did not compensate her for any amount as they stated they spent more money on a new contractor and did not have anything left in the budget for the Tenant's work.

In 2018, the Tenant testified that the Landlords had provided her with \$270.00 in compensation for maintaining the back lawn.

The Landlords testified that they did have a verbal agreement to compensate the Tenant for the mowing of the back lawn. The Landlord requested and received an estimate from their yard maintenance contractor that it would cost another \$14.00 per session for the contractor to mow the back lawn. This is how they came up with the amount of \$270.00 in compensation for 2018.

The Tenant is claiming that she should receive \$600.00 for 2017 and the balance of \$330.00 for 2018.

The Landlords are claiming that there was never an agreed to amount and that they are willing to compensate the Tenant for 2017; however, the \$600.00 that was compensated in 2016 was when their costs were less. The Landlord obtained a quote from the yard maintenance contractor to establish a fair amount to pay the Tenant.

Analysis

Section 67 of the Act establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order the responsible party to pay compensation to the other party. In order to claim for damage or loss under the Act, the party claiming the damage or loss bears the burden of proof. The Applicant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the Tenancy Agreement or a contravention of the Act on the part of the other party. Once that has been established, the Applicant must then provide evidence that can verify the actual monetary amount of the loss or damage.

The Tenant and the Landlords agree on the facts that there was no formal agreement regarding the amount of compensation the Tenant would receive for mowing the backyard. They also agreed that the Landlords compensated the Tenant \$600.00 for 2016, nothing for 2017, and \$270.00 for 2018.

I accept that there was an agreement between the parties that the Tenant should be compensated for mowing the back yard. I accept that the Tenant was not compensated for 2017 and find that the Tenant has established a monetary loss, based on the Landlords' breach of the verbal agreement and the undisputed fact that the Tenant was not compensated in 2017. However, I find that the Tenant has failed to provide sufficient evidence to verify the actual monetary amount of the loss, specifically, how much should she be paid for her efforts of cutting the backyard lawn.

The Landlords testified and provided documentary evidence that they would need to pay a contractor \$270.00 a season for the work that the Tenant is claiming that she completed. As such, I find that the Landlords have established the actual monetary loss for the Tenant and, therefore, should compensate the Tenant for her efforts in 2017, in the amount of \$270.00.

I find that the Tenant's claim has merit and that she should be compensated for the cost of the filing fee in the amount of \$100.00, pursuant to Section 72 of the Act.

Conclusion

I grant the Tenant a Monetary Order for the amount of \$370.00, in accordance with Section 67 of the Act. In the event that the Landlords do not comply with this Order, it may be served on the Landlords, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

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: November 13, 2018

Residential Tenancy Branch