



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, FF

Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (Act) for:

- compensation for the cost of emergency repairs;
- compensation for his monetary loss or other money owed; and
- recovery of the filing fee.

The tenant attended the hearing; however, the landlord did not attend.

The tenant stated he served the landlord with his application for dispute resolution and Notice of Hearing by registered mail on June 20, 2019. The tenant provided the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. That number is listed on the style of cause page in this Decision.

The tenant submitted that the mail has not been returned to him.

I accept the tenant's evidence that the landlord was served notice of this hearing in a manner complying with section 89(1) of the Act and the hearing proceeded in the landlord's absence.

The tenant was provided the opportunity to present his evidence orally and make submissions to me.

Issue(s) to be Decided

Is the tenant entitled to monetary compensation from the landlord and to recover his filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and testimony, not all details of the submissions and / or arguments are reproduced here. The principal aspects of the tenant's claim and my findings around it are set out below.

The tenant submitted that this tenancy began on July 15, 2015, and ended on or about October 31, 2019.

The monthly rent at the beginning of the tenancy was \$1,100, and as of the end of the tenancy, it was \$1,300.

The tenant's monetary claim is as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Temporary rent (3 months)	\$4,800.00
2. Storage (3 months)	\$692.53
3. Sump pump	\$35.84
4. U-Haul truck	\$130.50
5. Filing fee	\$100.00
TOTAL	\$5,758.87

In support of his monetary claim, the tenant submitted that on September 25, 2019, a water line fitting failed, and with no shut-off, the basement of the rental unit began to flood, leaving 8" of water in two of the children's bedroom. The tenant submitted that the landlord had previously installed the water line with no shut-off.

The tenant said that his children had to stay with friends.

The tenant submitted that he called a plumbing company for a shut-off and was informed that the installation was not up to code. The tenant submitted that the landlord failed to respond until hours later, when he told the tenant a "hazmat" crew would be coming later.

According to the tenant, the landlord said the rental unit was unfit for habitation and requested he find immediate storage for his belongings and to vacate the premises.

The tenant submitted that he requested a written eviction Notice three times, but the landlord would not provide one, as the landlord said a verbal eviction was adequate.

The tenant submitted he is entitled to the monetary compensation he seeks, as he was forced to take time off and seek shelter for his family of four due to the unexpected flood.

The tenant submitted copies of invoices and receipts.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other party for damage or loss that results.

Section 7(2) also requires that the claiming party do whatever is reasonable to minimize their loss. (emphasis added)

Under section 67 of the Act, an arbitrator may determine the amount of the damage or loss resulting from that party not complying with the Act, the regulations or a tenancy agreement, and order that party to pay compensation to the other party.

In this case, the tenant has the burden of proof to substantiate his claim on a balance of probabilities.

In this case, the undisputed evidence is that the tenant did not carry tenant's, or renter's, insurance.

I find that a tenant's insurance policy generally covers expenses for damage to contents, storage, hotel, gas, moving, and food costs.

I find the tenant's failure to purchase tenant's insurance to cover these events, such as flooding in the rental unit and which are unforeseen, substantiates that the tenant did not do whatever is reasonable to minimize his loss.

Further, in a case like this, a tenancy only ends when the tenant vacates the rental unit or when a landlord issues the tenant a written notice to end the tenancy.

I find this tenancy ended when the tenant vacated the rental unit, not when the landlord issued a written notice to end the tenancy. I find it was therefore the tenant's choice to end the tenancy, as he was not forced to move out with a landlord's verbal eviction. I further find that in this respect, the tenant again failed to do whatever is reasonable to minimize his loss. If the tenant was unsure of his rights under the Act, he could have called staff at the Residential Tenancy Branch (RTB) to discuss the situation.

As I have found the tenant failed to do whatever is reasonable to minimize his loss, I find he has not satisfied his burden of proof, and I therefore dismiss his monetary claim for temporary rent of \$4,800, storage for \$692.53, and U-Haul expenses of \$130.50.

As to the tenant's request for the cost of emergency repairs, I find it reasonable that the tenant would have to call a plumber to deal with the flooding, in light of the landlord's failure to respond to the tenant's calls.

I therefore grant the tenant a monetary award of \$35.84 for rental of a sump pump, shown on the receipt provided into evidence.

I grant the tenant recovery of his filing fee of \$100.00, as he had some success with his application due to the landlord's failure to respond to his calls about the flooding in the rental unit and pursuant to section 72(1) of the Act.

I therefore grant the tenant a monetary award of \$135.84, for a sump pump rental of \$35.84 and the filing fee for \$100.00 paid for this application.

I grant the tenant a final, legally binding monetary order pursuant to section 67 of the Act for the amount of \$135.84.

Should the landlord fail to pay the tenant this amount without delay after being served the order, the monetary order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The landlord is advised that costs of such enforcement are subject to recovery from the landlord.

Ministerial Order M089 issued March 30, 2020, pursuant to the State of Emergency declared on March 18, 2020, prohibits the enforcement of certain Residential Tenancy Branch orders made during the state of emergency.

Enforcement of other Residential Tenancy Branch orders may be affected by the suspension of regular court operations of the BC Supreme Court and Provincial Court.

Conclusion

The tenant's application for monetary compensation has been minimally successful and he has been awarded a monetary order in the amount of \$135.84.

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 22, 2020

Residential Tenancy Branch