



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MT, PSF, OLC, RR

Introduction

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

- more time to cancel a Notice to End Tenancy, pursuant to section 66;
- cancellation of the 10 Day Notice to End Tenancy for Unpaid Rent, pursuant to section 46;
- an Order directing the landlord to comply with the *Act*, regulation or tenancy agreement, pursuant to section 62;
- an Order to provide services or facilities required by the tenancy agreement or law, pursuant to section 65; and
- an Order to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

Both parties agree that the landlord was served with the tenant's application for dispute resolution via registered mail. I find that the landlord was served in accordance with section 89 of the *Act*.

Both parties agree that the tenant moved out of the subject rental property on October 31, 2020. I therefore dismiss the tenant's application for:

- more time to cancel a Notice to End Tenancy, pursuant to section 66;
- cancellation of the 10 Day Notice to End Tenancy for Unpaid Rent, pursuant to section 46;
- an Order directing the landlord to comply with the *Act*, regulation or tenancy agreement, pursuant to section 62; and

- an Order to provide services or facilities required by the tenancy agreement or law, pursuant to section 65
- as these claims are no longer applicable.

Issue to be Decided

1. Is the tenant entitled to an Order to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of both parties, not all details of their respective submissions and arguments are reproduced here. The relevant and important aspects of the tenant's and landlord's claims and my findings are set out below.

Both parties agreed to the following facts. This tenancy began on January 3, 2020 and ended on October 31, 2020. The landlord reduced the rent to \$1,400.00 per month for the months of July-September 2020 due to COVID-19. Rent returned to the usual rental rate of \$1,500.00 on October 1, 2020. A security deposit of \$750.00 was paid by the tenant to the landlord. The subject rental property is a two-bedroom basement suite.

The tenant testified that the second bedroom in the subject rental property was full of the landlord's belongings when he moved in and the landlord promised to have them removed within the first week of the tenancy but failed to do so. The tenant testified that he repeatedly asked the landlord verbally and via text to remove her belongings, but the landlord did not do so for the duration of the tenancy. The tenant testified that the loss of the second bedroom prevented him from hosting friends and family.

The tenant testified that he is seeking a reduction in rent in the amount of \$700.00 per month for the duration of this tenancy, for loss of use of the second bedroom. The tenant testified that it costs approximately \$700.00 per month in the subject rental city to rent a room, and that is what his claim is based on. The tenant testified that this tenancy was 10 months in duration, so the landlord owes him \$7,000.00 for the loss of use of the second bedroom.

The tenant entered into evidence a text messages referring to the landlord's belongings in the second bedroom on January 28, 2020. The tenant entered into evidence photographs of the landlord's belongings in the second bedroom dated March 18, 2020, September 15, 2020 and October 20, 2020 the amount of items is the same between the photographs.

The landlord testified that only some of her belongings were in the second bedroom when the tenant moved in and that the tenant moved 90% of the items from the shared laundry room into the bedroom when she paid him to lay new flooring. The landlord testified that she never authorized or asked the tenant to move her belongings into the second bedroom. The landlord testified that she recalled the tenant asking her verbally to remove her possessions, but she did not remove them because she had a sore back and was dealing with the loss of loved ones. The tenant testified that most of the landlords' possessions in the second bedroom were there when he moved in.

Analysis

Pursuant to section 65(1)(f) of the Act, if the director finds that a landlord has not complied with the Act, the regulations or the tenancy agreement, the director may issue an order to reduce past or future rent by an amount equivalent to a reduction in the value of a tenancy agreement.

I find that the tenant has proved, on a balance of probabilities, that the landlord left a large quantity of personal possessions in a bedroom of the subject rental property for the duration of this tenancy.

I find that the tenancy agreement granted the tenant exclusive occupation of the subject rental property. I find that the landlord breached the tenancy agreement by leaving her personal possessions in the second bedroom. I find that the tenant asked the landlord on numerous occasions to remove her possessions, but the landlord did not comply with these requests. I find that the value of this tenancy was reduced as the tenant did not have full use of the second bedroom; however, I find that the tenant is not entitled to a 50% rent reduction as the tenant had full use of the majority of the subject rental property and it could not be expected that the tenant would have guests every night.

I find that the tenant is entitled to a rent reduction in the amount of \$250.00 per month for the duration of this tenancy as compensation for the reduced value of this tenancy, for a total of \$2,500.00.

Conclusion

I issue a Monetary Order to the tenant in the amount of \$2,500.00.

The tenant is provided with this Order in the above terms and the landlord must be served with this Order as soon as possible. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: January 12, 2021

Residential Tenancy Branch