



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT

Introduction

This hearing dealt with the tenant's application pursuant to section 67 of the *Residential Tenancy Act* (the "Act") for a monetary award for damages and loss.

The landlord did not attend this hearing which lasted approximately 10 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The tenant attended and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The tenant was made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and they testified that they were not making any recordings.

The tenant testified that they served the landlord with the notice of application and evidence by registered mail sent on April 23, 2021. The tenant provided a valid Canada Post tracking number as evidence of service. Based on the evidence I find that the landlord is deemed served with the tenant's materials on April 28, 2021, five days after mailing, in accordance with sections 88, 89 and 90 of the Act.

Issue(s) to be Decided

Is the tenant entitled to a monetary award as claimed?

Background and Evidence

The tenant provided undisputed evidence regarding the following facts. This fixed term tenancy began on December 1, 2020. The monthly rent was \$1,500.00 payable on the first of each month. A security deposit of \$700.00 was paid to the landlord at the start of the tenancy. The rental unit is the lower portion of a detached home with the tenant given exclusive use of the garage. The tenant vacated the rental unit shortly after the tenancy began on December 10, 2020.

The tenant now seeks a monetary award in the amount of \$2,200.00 writing in their application:

Five days after moving in the landlord boarded the garage door. Cutting off access to garage and laundry facilities. I paid monthly for the garage and laundry was included in the rent. The landlord asked me to tow other tenants vehicles off of the property and I declined. The landlord was calling me and knocking on my doors and windows several times a day harassing me.

The tenant submitted into documentary evidence a text message from a neighboring tenant who is pursuing a separate application against the landlord, a video of the tenant checking the temperature of water coming out of their plumbing fixture, the signed tenancy agreement, pages from an unsigned condition inspection report and a receipt for the deposit paid for the tenancy.

The tenant testified that they were unable to use the garage of the rental unit and that the landlord randomly shut off the hot water and electricity to the rental unit. The tenant complained about significant conflicts with the landlord prior to vacating the rental unit.

The tenant did not articulate how they calculated the amount of their monetary claim.

Analysis

The onus to establish their claim on a balance of probabilities lies with the applicant pursuant to Residential Tenancy Rule of Procedure 6.6.

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 that 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 claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* 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.

I find the tenant's submissions, unsupported in the documentary materials and referencing evidence that was not submitted and consisting of general accusations and subjective complaints, to be insufficient to meet their evidentiary burden on a balance of probabilities. I find the tenant's complaints and testimony to not be supported in the documentary materials provided.

Residential Tenancy Rule of Procedure 7.4 provides that evidence must be presented. I find the reference to other proceedings initiated by occupants of the building for separate tenancies to be of little assistance in establishing that there has been a breach by the landlord pertaining to this tenancy. If the tenant intended to rely upon some pieces of documentary evidence that was used for a separate hearing the onus lies with them to submit those pieces of evidence for the present hearing. The tenant cannot simply seek a monetary award on the basis that other occupants of the rental building have been successful in pursuing their own separate claims.

I find that the tenant has not met their evidentiary burden and consequently dismiss the present application in its entirety.

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: September 10, 2021

Residential Tenancy Branch