



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION AND REASONS

Dispute Codes:

MNDC, FF

Introduction

This hearing was scheduled to deal with the Tenant application for a monetary Order for money owed or compensation for damage or loss, to dispute an additional rent increase under the *Residential Tenancy Act (Act)*, Regulation or tenancy agreement; and to recover the filing fee from the Landlord for the cost of filing this Application for Dispute Resolution.

Both parties were present at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present oral evidence, to cross-examine the other party, and to make submissions during the hearing.

Preliminary Matter

At the commencement of the hearing the applicant made a request for an adjournment. The applicant testified that he required more time to prepare for the hearing. The applicant then changed his mind and determined that he was prepared to proceed.

The tenant supplied some evidence that was late; the landlord made no objection to the inclusion of this evidence.

Issue(s) to be Decided

Is the tenant entitled to compensation for an additional rent increase?

Is the tenant entitled to compensation for loss of clothing and the cost of changing a lock in the sum of \$1,096.00?

Is the tenant entitled to filing fee costs?

Background and Evidence

During the hearing the parties agreed that this tenancy commenced in March 2003 and terminated on May 1, 2007. The tenant submitted copies of three residential tenancy

agreements; two dated February 5, 2003 and one dated February 28, 2006. The first agreement dated February 5, 2003 indicates rent at \$1,100.00 per month and the second copy is amended to \$1,200.00 per month.

The tenant testified that he paid \$800.00 for his first month of rent, that in the second month of the tenancy he paid \$1,100.00 and that by May 2003 he was paying \$1,200.00 per month rent. The tenant stated that he agreed to pay these amounts and accepted the amended tenancy agreement but alleges he had been "tricked" by the landlord. The tenants testified that he was building a new shop for the landlord and that the first months reduced rent was to take into account the lack of use of the shop. The tenant stated that he could not move out of the rental unit, that it had taken him two months to move in and would take him two months to move out.

The tenant testified that the landlord approached him when the shop was completed and demanded \$1,400.00 per month, so the tenant accepted an increase to \$1,200.00. The third tenancy agreement signed between the parties on February 26, 2008 was for the purpose of extending the tenancy from May 1, 2006 to a fixed term ending on May 1, 2007; the date upon which the tenancy ended.

The tenant testified that he lost \$1,000.00 worth of clothing due to problems with the hot water tank. The tenant stated the hot water tank was rusty and stained his clothes. The tenant testified that he sent the landlord an August 7, 2005 letter complaining about the water quality.

The Tenant stated that the lock to the door of the house malfunctioned and that he had to replace this lock at a cost of \$96.00. The tenant testified that it is possible he did not call the landlord prior to replacing this lock himself.

The landlord testified that they have lived on this property for 40 years and never had problems with the well water that is shared between the two residences and that the current tenant has not complained of any water quality problems. The landlord denied receiving any written or verbal complaint in relation to problems with the water by the tenant/applicant. The landlord testified that at the tenant's request they did replace the furnace.

The landlord testified that the tenant changed the lock to the door of the house as the tenant was going away and did not want anyone else in the home.

Analysis

The tenant testified that he only signed the tenancy agreements as he felt he had no choice; that it would be too onerous for him to move out now that he was settled in the rental unit and had use of the shop. I can not find that the tenant was under any duress or that his acceptance of the increase in rent was in any way due to coercion by the landlord. The tenancy agreement signed by the parties on February 5, 2003 indicated \$1,100.00 per month rent, the tenant paid only \$800.00 for the first month of rent and began paying \$1,200.00 per month once the shop was completed and the tenancy agreement was amended. The tenant has come forward six years since the events occurred and just under two years since the tenancy ended to make this claim and while

the passage of time alone does not necessarily diminish a claim, I can not find any reasons to support the tenant's claim that he was tricked into accepting a rental amount that is clearly indicated on the tenancy agreements. The tenant had not made any monetary claim in relation to this portion of his application. I find that the tenant's claim that he was given an additional rent increase is dismissed without leave to reapply.

The tenant's claim that he lost \$1,000.00 of clothing in 2005 is not supported by any evidence of this loss, other than the tenant's verbal claim. In the absence of any evidence of this loss such as documented evidence of the loss, I find that the tenant claim for loss of clothing is dismissed without leave to reapply.

The tenant's claim that he paid for a new lock to the door of the house is not in question. The tenant testified that he does not recall giving the landlord at least two opportunities to replace the lock to the house, as required by section 33 of the Act. I am not convinced that the lock was malfunctioning, but based upon a failure by the tenant to follow the requirements for emergency repairs by tenants, which require the tenant to give the landlord at least two opportunities to complete repairs, I dismiss without leave to reapply, the tenant's claim for lock replacement costs.

I find that the Tenant's application does not have merit and that he is not entitled to recover the cost of filing this Application for Dispute Resolution from the Landlord.

Conclusion

I have dismissed without leave to reapply the tenant's claim related to an additional rent increase and a monetary Order for damages or loss in the sum of \$1,096.00. The tenant's claim for filing fee costs is dismissed.

Dated June 05, 2009.

Dispute Resolution Officer