



Dispute Resolution Services

Residential Tenancy Branch

Ministry of Housing and Social Development

DECISION

Introduction

This hearing was convened in response to an application by the landlord and a cross-application by the tenant.

The landlord applied for a monetary order for damage or loss under the act, regulation or tenancy agreement, and to keep all or part of the security deposit in satisfaction of the monetary claim. Specifically, the landlord sought compensation for an amended claim during the hearing, of \$250 - for damage to the rental unit's washing machine.

The landlord holds the security deposit in the amount of \$540, plus accrued interest.

The tenant applied for the return of the security deposit of \$540 in claiming compensation for laundry costs incurred due to the broken washing machine – free laundry having been part of the contractual tenancy. The tenant's original application mistakenly applied for a monetary amount beyond the entitlement scope of the tenant – having claimed compensation for an additional occupant of the rental unit not on the tenancy agreement.

Both parties applied for recovery of their respective filing fees for their applications.

Each party participated in the conference call hearing with their solemnly affirmed testimony, and submissions.

Issue(s) to be determined

Are the applicants entitled to the monetary amounts claimed?

Background and evidence

The tenant provided a copy of the tenancy agreement. Neither party provided any supporting evidence to substantiate their claim, although each party provided amended and mitigated claims in testimony.

It is undisputed by the testimony of both parties that the tenant was directly responsible for damage to the washing machine. The tenant claims that she and her roommate used a screwdriver to pry open the front loading door of the unit rendering it unusable for the balance of the tenancy. The landlord supplied the parts necessary for the repairs, leaving the labour required to complete the repairs to the tenant. The landlord claims the damage to be no less than \$250, and the tenant determined this amount to be reasonable for the damage incurred.

The tenant testified that as a result of the direct damage to the washing machine (or that of a person permitted on the residential property by that tenant) and having informed the landlord, in her determination the landlord's failure to remedy her damage in a reasonable amount of time caused the tenant to incur costs for laundry outside of the rental unit. As a result the tenant seeks compensation in the mitigated amount of \$500 for purported breach of the contractual tenancy, which provided for free laundry.

Analysis

As per the parties' concurrence, I find the landlord is entitled to **\$250** in full compensation of his amended claim for damages.

The tenancy agreement included (free) laundry in the form of the use of the in suite laundry facilities. In this case, the tenant had to pay for laundry, due to the tenant's own damage of the free laundry facilities, and for which damage the tenant is responsible to repair. The landlord provided the parts to the tenant, but the tenant could not bring about the repairs needed to make the laundry facilities usable. The tenant consequently continued to incur costs for laundry for the balance of the tenancy – for which she now seeks compensation.

The Residential Tenancy Act Regulations, in part, state as follows: **(emphasis for ease)**

Repairs

8 (1) Landlord's obligations:

(a) The landlord must provide and maintain the residential property in a reasonable state of decoration and repair, suitable for occupation by a tenant. The landlord must comply with health, safety and housing standards required by law.

(b) If the landlord is required to make a repair to comply with the above obligations, the tenant may discuss it with the landlord. If the landlord refuses to make the repair, the tenant may make an application for dispute resolution under the *Residential Tenancy Act* seeking an order of the director for the completion and costs of the repair

(2) Tenant's obligations:

(a) The tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. **The tenant must take the necessary steps to repair damage to the residential property caused by the actions or neglect of the tenant or a person permitted on the residential property by that tenant.** The tenant is not responsible for repairs for reasonable wear and tear to the residential property.

(b) If the tenant does not comply with the above obligations within a reasonable time, the landlord may discuss the matter with the tenant and may make an application for dispute resolution under the *Residential Tenancy Act* seeking an order of the director for the cost of repairs, serve a notice to end a tenancy, or both.

In light of the tenant's failure to take the necessary steps and make the necessary repairs, I find the landlord at least attempted to assist in achieving the necessary repairs by supplying the parts, and the tenant purports to have acted on good intentions to realize the full extent of the repairs; but ultimately, chose to incur mounting costs for laundry outside of the tenancy agreement rather than ensure the necessary repairs. I find the landlord was not obligated to complete the repairs although he had the option of applying for dispute resolution during the tenancy to realize full compensation for the repairs, but chose not to. On preponderance of all the evidence in this matter I do not find the tenant is entitled to compensation. As a result, I dismiss the tenant's claim without leave to reapply.

The landlord holds \$549 as security deposit and accrued interest. I order the landlord is permitted to retain \$250 of it in satisfaction of their claim as well \$50 for recovery of their filing fee for their application. I order the landlord return the balance of the security deposit and accrued interest to the tenant in the amount of **\$249**.

Conclusion

The tenant is given a Monetary Order under section 67 of the Residential Tenancy Act in the amount of **\$249**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated November 16, 2009.