

DECISION

Dispute Codes MNDC, AAT, RR, FF

Introduction

This hearing dealt with an application by the tenant for a monetary order, an order allowing him access to the rental unit and an order permitting him to reduce rent. Both parties participated in the conference call hearing.

At the hearing the tenant advised that he had vacated the rental unit and that the only claim with which he wished to proceed was the claim for a monetary order.

Issue to be Decided

Is the tenant entitled to a monetary order as claimed?

Background and Evidence

The parties agreed that the tenancy began in or about 2006 and that the rental unit is a manufactured home for which the tenant pays \$500.00 per month in rent. For the duration of the tenancy, the rental unit was located at site #13 in the manufactured home park. The rental unit is 8' x 30' and as the landlord had a second, much smaller site (site #5) in the park on which he had no manufactured home, the landlord decided to move the rental unit to site #5 as he had been unable to locate a manufactured home which was small enough to fit in the site. The parties had several conversations about the move taking place and the tenant requested that the landlord give him a letter confirming the date on which the move of the rental unit would occur. On January 20, 2010 the landlord's agent, K.T., gave the tenant a letter advising that the rental unit would be moved "as of Feb 28th" and that he needed to "vacate the premises." The parties agreed that they were both of the understanding that the intent of the letter was not that the tenant would vacate the rental unit, but that the tenant had the option of either completely vacating the rental unit or moving with the rental unit to site #5.

During the tenancy the tenant had built an addition on the rental unit as well as an attached shed which had to be removed in order to move the rental unit. The landlord testified that he permitted the tenant to live rent-free in the month of February as compensation for the labour the tenant would expend taking down the addition. The tenant testified that he was told the rent-free month was to compensate him for the cost of disconnecting and reconnecting utilities.

The tenant testified that on February 8 the skirting was removed from around the unit as was the attached shed, which left a hole in the side of the trailer that was boarded up. The tenant testified that for the remainder of February, he had to remove the boards

On February 10 the tenant was given a second letter which stated that the tenant would continue living at the manufactured home park when the rental unit was moved from site #13 to site #5. The tenant testified that it was not until he received this letter that he was certain that the rental unit would be moved. The tenant testified that he had begun packing up his belongings in January and left them in boxes in the unit. The tenant testified that there was a leak in the roof and that the boxes in which his belongs were packed absorbed moisture, which ruined the items therein. The landlord testified that the tenant did not inform him of a leak in the roof. The tenant claimed that he advised one of the people hired by the landlord to remove the skirting from the trailer and at a later date, advised the landlord directly that the roof had buckled and a tarp would be required.

The tenant testified that on February 18 the hot water and heat to the unit were disconnected without notice and on February 20 plumbing and electrical services were discontinued. The tenant testified that he lost food in the refrigerator which spoiled when the power was disconnected.

The tenant gave evidence that on February 20 the unit was dragged off the pad at site #13 and left several dozen feet away, on uneven ground. The unit remained in this position for more than one week. On that date, the tenant determined that he could no longer remain in the rental unit. The tenant secured new accommodation on February

23 and began the process of moving his belongings to the new residence. The tenant testified that he was unable to sleep in his new residence until the beginning of March.

The tenant seeks compensation for hardship, recovery of the goods he discarded due to water damage, the value of the groceries which were spoiled when the power was disconnected, recovery of the March rent and damage deposit he paid for his new residence, recovery of the cost of reconnecting his utilities in the new residence, 75% of his most recent Terasen Gas bill which he claims was abnormally high because the skirting had been removed from the home, the cost of eating meals in restaurants as he was unable to cook at home, the cost of renting a van in which to move, the cost of gas for the van and two other vehicles which were used in his move, the cost of travelling to and from the Residential Tenancy Branch, the cost of his filing fee and the cost of reproducing documents and photographs.

Analysis

It is clear on the facts that the tenant at some point agreed to move from site #13 to site #5. Such a move would necessarily require the temporary disconnection of services. However, the landlord was contractually obligated to provide a rental unit which had continuous access to services. I find that even though the disconnection was required, the tenant is entitled to compensation for loss of quiet enjoyment for the period in which he did not have access to services. I find that an award of \$200.00 will adequately compensate the tenant for loss of quiet enjoyment for the period from February 18 to February 28 and I award the tenant that sum.

Because the tenant agreed on the move, the temporary disconnection of services should not have taken him by surprise and does not indicate that the landlord had ended the tenancy or breached a material term which gave the tenant the right to end the tenancy. I find that the tenant is therefore not entitled to compensation for hardship, the rent and damage deposit paid to his new landlord, reconnection charges or moving costs and I dismiss those claims.

Although the tenant claimed that his goods were damaged by a leak, he provided no evidence of this damage and I am not persuaded that the tenant took steps to minimize his loss, such as moving the boxes from an area in which they were exposed to moisture, if in fact they were. I find that the tenant has not proven this element of his claim and dismiss the claim for the value of pictures, clothing, bedding and towels.

I find that the tenant is entitled to recover the value of his groceries as well as some compensation for the meals he had to purchase from February 20 – 28. If the landlord had given the tenant notice of the date on which the power would be disconnected, the tenant could have prepared himself accordingly. However, the tenant has given no corroborating evidence to show exactly what was in the refrigerator at the time the power was disconnected and what foods were lost. The tenant claimed that he could not eat in the unit at all from February 20-28 but provided no receipts for the meals he purchased. In the absence of any receipts to show the cost of what was purchased, I find that the tenant has not proven that he spent the \$250.00 he claims to have spent. Further, even if the power had continued throughout the month, the tenant would have incurred some cost in purchasing food to prepare at home and I find that the landlord cannot be held fully responsible for all the food consumed by the tenant during the relevant time period. I find that \$150.00 will adequately compensate the tenant for the loss of his groceries and for the cost of restaurant meals and I award the tenant that sum.

As the tenant took the position that he was permitted to live rent-free in February as compensation for the additional expenses he would incur for reconnecting utilities, I find that the tenant has already been compensated for reconnecting utilities and I dismiss that claim. The tenant provided no corroborating evidence to show that his gas bill was significantly higher in February and I find that he has not proven that loss. I therefore dismiss the claim for recovery of a portion of his gas bill for February.

Under the Act, the only litigation-related expenses I am empowered to award is the cost of the filing fee. I find that the tenant should recover the \$50.00 fee paid to bring his

application and I award him that sum. The claim for the cost of gas to attend at the Residential Tenancy Branch and the claim for photo and printing costs is dismissed.

Conclusion

The tenant has been awarded \$400.00 which represents \$200.00 for loss of quiet enjoyment, \$150.00 for the loss of groceries and cost of restaurant meals and \$50.00 for the filing fee. I grant the tenant a monetary order under section 67 for \$400.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Dated: April 14, 2010
