



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes: MNDC, FF

Introduction

This hearing dealt with an application by the tenant for a monetary order. The tenant testified that he served the landlord with the application for dispute resolution and notice of hearing via registered mail on or about March 24, 2011. I accepted that the landlord had been properly served and the hearing proceeded in his absence.

Issue to be Decided

Is the tenant entitled to a monetary order as claimed?

Background and Evidence

The tenant's undisputed testimony is as follows. The landlord served the tenant with a 2 month notice to end tenancy for landlord's use of property (the "Notice") which alleged that the landlord or a close family member would be occupying the rental unit. The Notice was effective on December 31, 2010 and the tenant vacated the rental unit by that date. The tenant received compensation equivalent to one month's rent when he withheld rent for the last month of the tenancy.

The tenant testified that the landlord or a close family member did not move into the rental unit and that the rental unit had been advertised for sale in January 2011. The tenant seeks compensation under section 51(2) of the Act for \$3,600.00, which is equivalent to double the monthly rent he was paying during his tenancy. The tenant further seeks compensation for moving costs, gas and the costs of obtaining copies of cheques and filing for dispute resolution hearing.

The tenant testified that on December 5, 2010, the hot water tank burst, leaving the tenant without hot water until December 10. During that period, the tenant and his family showered at a friend's home and paid that friend \$50.00. The tenant seeks to recover that payment.

The tenant testified that from December 20 – 31, the landlord had drywallers working in the rental unit using the electricity which the tenant paid for. The tenant seeks to recover \$60.00, which is 1/3 of the electrical bill for that month.

Analysis

Section 51(2) of the Act provides as follows:

51(2) In addition to the amount payable under subsection (1), if

51(2)(a) steps have not been taken to accomplish the stated purpose for ending the tenancy under section 49 within a reasonable period after the effective date of the notice, or

51(2)(b) the rental unit is not used for that stated purpose for at least 6 months beginning within a reasonable period after the effective date of the notice,

the landlord, or the purchaser, as applicable under section 49, must pay the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement.

Based on the tenant's undisputed testimony, I find that the landlord failed to use the rental unit for the purpose stated in the notice to end tenancy. I find that the landlord is liable under section 52(2) to pay the tenant \$3,600.00, which is double the \$1,800.00 per month rent the tenant paid during the tenancy. I award the tenant \$3,600.00.

The tenant's claim for the value of moving costs and gas is dismissed. The compensation received by the tenant in December 2010 was designed to cover moving costs and there is no provision in the Act under which the tenant can claim any amount beyond what is statutorily prescribed. I also dismiss the claim for the cost of obtaining copies of cheques as I have no authority to award litigation-related costs other than a filing fee.

I accept that the tenant paid \$50.00 to use hot water during a period in which he was deprived of hot water in the rental unit and I find that the landlord should bear that cost. I award the tenant \$50.00.

I dismiss the tenant's claim for 1/3 of the cost of the electrical bill for December. The tenant provided no proof of what he was charged for December and testified that his bill averaged \$200.00. In order to prove his claim, the tenant would have had to prove that the bill for December was higher than it would have been had the drywallers not been working in the rental unit. I find that the tenant has not met that burden.

The tenant is entitled to recover the \$50.00 filing fee paid to bring his application and I award him that sum.

Conclusion

I grant the tenant an order under section 67 for \$3,700.00 which represents two months rent, \$50.00 for shower costs and \$50.00 for the filing fee. 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: April 11, 2011

Residential Tenancy Branch