



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, O, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by both the tenant and the landlord.

At the start of the hearing I clarified with the applicant her correct name and as a result have amended the tenant's Application to show the tenant's correct name.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for compensation for damage or loss and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 27, 32, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenancy began on April 1, 2011 as a 1 year fixed term tenancy for a monthly rent of \$1,500.00 due on the last day of each month with a security deposit of \$750.00 paid.

The tenant seeks compensation in the amount of \$100.00 for the inability to use the dishwasher in the rental unit for a period of three weeks. The tenant has determined this value by calculating the value of 10 items that the tenancy agreement includes such as the dishwasher, fridge, stove, water, parking and others as a 1/10 of the value of the tenancy. The tenant did not attribute any value to the rental of the space or the use of the rental unit itself.

In this case the tenant has calculated that the value of the dishwasher (and by extension each of the other items included in the tenancy agreement) at \$150.00 per month or \$37.50 per week. Despite the three week total of \$112.50 the tenant only seeks \$100.00.

The tenant testified that on September 24, 2011 she reported a problem with the dishwasher to the landlord and indicated to the landlord that the need for repair was urgent. The landlord testified that she contacted her regular contractor who indicated it

would be a few days later that they could attend. The landlord testified that she had tried other contractors but when the response was the same she decided to wait for her regular contractor.

Once seen by the contractor it was determined that it could not be repaired and that a new dishwasher was required. The landlord ordered one and it was installed on October 13, 2011.

The tenant's position that because the dishwasher was included in the rent its breakdown constitutes the restriction or termination of a service or facility contrary to Section 27 of the *Act*. The landlord disputes any restriction or termination.

The landlord asserts that the repairs required and/or replacement may have been provided early, allowing for no disruption of use of the dishwasher had the tenant notified the landlord when she first noticed problems with the dishwasher. The tenant had indicated in her email correspondence that it had been acting up for about a month.

Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

Section 27 of the *Act* states a landlord must not terminate or restrict a service or facility if the service or facility is essential to the tenant's use of the rental unit as living accommodation, or providing the service or facility is a material term of the tenancy.

A material term is defined in Residential Tenancy Policy Guideline #8 as a term that parties both agree is so important that the most trivial breach of that term gives the other party the right to end the agreement.

Despite being a term of the tenancy agreement, I have no evidence before me that conveys that the service or facility of a dishwasher is essential to the tenant's use of the rental unit or that failure to provide a dishwasher would breach the tenancy agreement in such a manner that would give the tenant the right to end the tenancy. As such, I find the landlord has not breached Section 27.

Section 32 requires a landlord to provide and maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law and having regard for the age, character, and location of the rental unit

make it suitable for occupation. I find, based on the testimony of both parties that the landlord has complied with this requirement by installing a new dishwasher.

I also find that the landlord had no choice but to rely upon her contractor's timeline for the initial investigation and the timeline for ordering and installing a new dishwasher, as these timelines were outside of the landlord's control.

While I accept that the terms of the tenancy agreement included the provision of a dishwasher and based on the testimony of both parties, I find the landlord took all reasonable steps to complete its repair and/or replacement within a reasonable timeframe. I accept that the tenant recognizes this as well.

I also accept the landlord's position the possibility exists that if the tenant had provided the landlord with an indication there was a problem with the dishwasher sooner she may have been able to repair or replace it sooner and without interruption to the tenant's use of the dishwasher.

As to whether or not this inconvenience warrants any monetary compensation, I am not convinced that the tenant suffered any loss in value of the tenancy, even for the short period of time she was without the use of the dishwasher.

Conclusion

For the reasons noted above, I dismiss the tenant's Application in its entirety.

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: January 20, 2012.

Residential Tenancy Branch