



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNDC, FF*

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for a monetary order for compensation in the amount of \$6,672.68, for the cost of storage, moving and for the inconvenience suffered due to the actions of the landlord. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord responsible for the cost of moving and storage of the tenant's belongings? Did the tenant suffer a monetary loss and inconvenience due to the actions of the landlord?

Background and Evidence

The parties entered into a tenancy agreement on May 11, 2011. The tenancy was due to start on June 01, 2011. The tenant stated that her tenancy at the rental unit that she was occupying at the time she signed the tenancy agreement was due to end on June 30, 2011. Therefore she intended to move her items through the month of June and did not have a set date for movers.

On June 01, the tenant contacted the landlord for the keys to the rental unit. Both parties stated that the conversation did not go well. The landlord stated that during that conversation, the tenant informed him that she was pregnant and requested permission to fasten furniture to the wall to ensure the safety of her children. The landlord stated that the tenant was aggressive and that he felt uncomfortable with the conversation. The tenant stated that the female landlord was aggressive.

Later that day, around 8 pm, the tenant visited the unit and took "some toiletries" with her. At approximately 9:30 pm, the landlord visited and indicated to the tenant that after the conversation earlier that day, he was having second thoughts about renting to the tenant. The landlord offered to return the security deposit and the uncashed cheque for June's rent. The tenant refused to accept the landlord's offer. The tenant stated that the landlord informed her that he would be serving her with an eviction notice. The landlord denied this.

The landlord stated that he had no intentions of serving the tenant with an eviction notice and never indicated to her that he would. The tenant left the rental unit and took with her the few items that she had brought.

On June 02, the landlord changed the locks. The landlord stated that the tenant had not yet moved in and that he needed time to think about what course of action to take. He informed the tenant that the locks were changed. On June 03, the landlord decided to let the tenancy continue and left a message for the tenant offering her the new keys. The tenant stated that she refused the offer. The landlord stated that he made several attempts to contact the tenant, but did not hear back from the tenant until June 10, when he received a letter dated June 08 with a request for the return of the security deposit and the rent cheque for June. The landlord complied immediately.

The tenant stated that she looked for another rental unit and found one for July 01, 2011. The tenant entered into a new tenancy agreement mid July. The tenant moved some of her belongings into storage on June 10. On June 30, the tenant moved into her mother's home and finally moved into her new rental unit on July 08. The tenant is claiming the cost of moving her possessions to and from storage plus the cost of storage.

The tenant is claiming the following:

1.	Cost of storage June 10 to July 08	\$418.12
3.	Moving belongings to new rental unit on July 09	\$520.00
4.	Gas Bill	\$34.73
5.	Loss of quiet enjoyment	\$5,100.00
6.	Filing fee	\$100.00
	Total	\$6,641.68

Analysis

It must be emphasized that in order to claim for damage or loss under the *Act*, the party claiming the damage or loss must establish each claim on the balance of probabilities. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. Finally the claimant must show that reasonable steps were taken to address the situation and to mitigate the damage or losses that were incurred. I will address each of the tenant's claims as follows:

1. Cost of storage June 10 to July 08 - \$418.12

The tenant testified that she had the use of her rental unit up to June 30, 2011 with intentions of moving items to the dispute rental over the course of June. The tenant found a new rental unit for July 01 and therefore could have moved her belongings directly to the new rental on July 01. The tenant chose to store her belongings in rented storage and therefore must bear the cost of storage.

2. Moving belongings to storage on June 24 - \$468.75
3. Moving belongings to new rental on July 09 - \$520.00

For the reasons cited above, I find that the tenant did not incur any additional costs of moving because she chose to store her belongings in rented storage, when she had a place to keep them. I also find that the tenant would have had moving costs that she was responsible for, even if this tenancy had materialized. Therefore I find that the tenant must bear the cost of moving her belongings to and from storage.

4. Gas Bill - \$34.73

The tenant filed a bill from the utility company in this amount. Since the landlord was unable to confirm whether this bill was paid or outstanding, I accept the tenant's testimony that she paid the bill and I award her \$34.73.

5. Loss of quiet enjoyment - \$5,100.00

The landlord changed the locks on June 02, 2011, thereby denying the tenant access to the rental unit. The landlord offered the tenant the new set of keys on June 03 which was not accepted by the tenant. Section 31 of the *Residential Tenancy Act* addresses **Prohibitions on changes to locks and other access**

31 (1) A landlord must not change locks or other means that give access to residential property unless the landlord provides each tenant with new keys or other means that give access to the residential property.

(1.1) A landlord must not change locks or other means of access to a rental unit unless

(a) the tenant agrees to the change, and

(b) the landlord provides the tenant with new keys or other means of access to the rental unit.

In this case, the landlord contravened the *Act* by changing the locks without informing the tenant or providing the tenant with a key on the same day that the locks were changed. The landlord did offer the tenant a key the next day which the tenant chose to refuse.

In order to prove an action for a breach of the covenant of quiet enjoyment, the tenant has to show that there has been a substantial interference with the ordinary and lawful enjoyment of the premises, by the landlord's actions that rendered the premises unavailable for occupancy. Such interference might include intentionally restricting access to the rental property.

In determining the amount of the value of the inconvenience to the tenant, I take into consideration the seriousness of the situation and the length of time over which the situation has existed.

Based on the testimony of both parties, I find that the tenant was inconvenienced for one day when she did not have access to the rental property. I also find that the tenant chose to end the tenancy and requested the return of the security deposit and rent for June.

Residential Tenancy Policy Guideline #16 states that an arbitrator may award "nominal damages" which are a minimal award. These damages may be awarded where there has been no significant loss, but they are an affirmation that there has been an infraction of a legal right. Accordingly, I find it appropriate to award the tenant a minimal award of \$200.00.

Since the tenant has proven a small part of her claim, I award her \$50.00 towards the recovery of the filing fee.

The tenant has established a claim as follows:

1.	Cost of storage June 10 to July 08	\$0.00
3.	Moving belongings to new rental unit on July 09	0.00
4.	Gas Bill	\$34.73
5.	Loss of quiet enjoyment	\$200.00
6.	Filing fee	\$50.00
	Total	\$284.73

I grant the tenant an order under section 67 of the *Residential Tenancy Act*, for \$284.73. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the tenant a monetary order in the amount of **\$284.73**.

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 23, 2012.

Residential Tenancy Branch