



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

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

The hearing was conducted via teleconference and was attended by the tenants only. The landlord did not attend.

The tenants named two landlords on their Application for Dispute Resolution but served only one of the landlords. I accepted the tenant's amendment to remove the second named landlord and proceeded with her application as amended.

The tenant testified she served the landlord with the notice of hearing documents and her Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* personally on December 8, 2011 in accordance with Section 89, and that this service was witnessed by two separate third parties.

Based on the testimony of the tenant, I find that the landlord has been sufficiently served with the documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to a monetary order for compensation for damage or loss resulting under the *Residential Tenancy Act (Act)*, regulation or tenancy agreement pursuant to Sections 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenant testified the tenancy began on December 15, 2008 as a month to month tenancy with rent that ranged from \$1,200.00 to \$1,300.00 per month that was due on the 1st of each month with a security deposit of \$600.00 paid. There was no written tenancy agreement.

The tenant testified that the tenancy ended on December 15, 2009 after the landlord had issued a 2 Month Notice to End Tenancy for Landlord's Use of the Property. The tenants, however, submitted into evidence a copy of a tenancy agreement for a new

rental unit effective November 1, 2009. The tenant testified that she did not move into this unit as there was a pest problem.

The tenants also provided copies of rent receipts with the last one being for rent for the month of October 2009 for \$700.00 cash and \$600.00 rebate of damage deposit. The tenant could not remember if she paid rent for the months of November and December 2009.

The tenant asserts that throughout the tenancy the rental unit had several deficiencies that she requested the landlord repair, including but not limited to plumbing and electrical problems; porch leaking with a loose railing; living room ceiling; a shifting house; cracked window; a hornets; nest and ant problem and problems with a washing machine and door bell.

The tenants provided into evidence a copy of a handwritten list of items to be repaired dated June 2, 2009 and a type written list of these items with a full explanation of the problems dated July 2, 2009.

The tenant has also provided sufficient evidence to establish that the hydro was cut off to the rental unit on September 25, 2009 as per instructions from the local municipal government. The tenant testified the hydro was out for 11 days but has provided no documentary confirmation of the duration.

The tenant seeks the following compensation:

Description	Amount
Food – lost due to power loss	\$537.98
Miscellaneous items such as yard decorations; keys for new rental unit; tape for packing	\$175.40
New locks; volt sensor; circuit analyzer and other items needed for new place	\$271.22
Address check for landlord	\$2.50
All hydro payments	\$1001.95
All rent payments	\$13,275.00
Tenant's Insurance	\$736.32
All Household gas payments	\$1,886.29
Gas for looking for new accommodation; moving and cleaning this rental	\$369.92
Additional miscellaneous items such as yard decorations; rugs; curtains	\$169.25
Lost receipts – including gas and film	\$452.23
Moving – company paid for by income assistance	\$870.85
Moving – friends @\$12.00 per hour for 3 hours a day for 28 days	\$2,016.00
Other expenses, including parking; bus fare; furnace filters; dog licence, film, development of film and change of address	\$178.97

Childcare for October due to no hydro	\$300.00
Miscellaneous items such as yard decorations; rugs, curtains, wall unit, film and development a child's play house and locks for the tenant's new rental	\$546.93
Total	\$22,790.81

With the exception of rent, hydro and household gas the tenant did not provide any receipts or copies of bills to substantiate these costs.

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.

While I accept that a landlord has the responsibility to provide and maintain a rental unit in a condition that make it suitable for occupation pursuant to Section 32 of the *Act*, the tenant must inform the landlord of deficiencies and request any repairs.

I accept the tenant did provide in writing a list of repairs 6 months after the start of the tenancy with a follow up a month later. However, I find the tenant failed to follow up her requests for repairs with the landlord and did not seek, through dispute resolution, an order to have the landlord complete repairs and comply with the *Act*, regulation or tenancy agreement. As such, I find the tenant failed to take all reasonable steps to mitigate any loss or damage from not having these repairs completed.

I also accept, from the evidence provided that hydro was cut off at the rental unit, *likely* from the actions of the landlord. However, as the tenant has provided no evidence to support the hydro was cut off for 11 days I have no way to determine how long the hydro was off and therefore how it may have impacted the tenancy or any losses the tenant may have suffered.

In relation to the tenant's claim for gas for looking for new accommodation and for the landlord to cover moving costs, as the tenant only vacated the rental unit as a result of the landlord's notice to end the tenancy, I find the tenant is not vacating for the landlord violating the *Act*, regulation or tenancy agreement so the tenant has not suffered any loss for moving.

Further as the tenant has provided no receipts for any of the claimed damages or loss, except for rent, hydro and household gas, I find the tenant has failed to establish the value of any possible damage or loss.

For these reasons, I find the tenant has failed to establish that she suffered a loss or damage; that any damage or loss resulted from a violation of the *Act*, regulation or tenancy agreement; the value of any such claimed damage or loss; or that she took reasonable steps to mitigate any such claimed damage or loss.

Conclusion

For the reasons noted above, I dismiss the tenants' 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: February 17, 2012.

Residential Tenancy Branch