



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 tenants for a monetary order. The tenants had originally made applications for several other orders but at the time of this hearing those matters were no longer at issue. The tenants also requested recovery of the filing fee from the landlord. Both parties attended the hearing and had an opportunity to be heard.

Issue(s) to be Decided

Are the tenants entitled to a monetary order?

Summary of Background and Evidence

This hearing was lengthy and there was a great deal of information provided by both sides as to what transpired at the outset of this tenancy but much of that information is no longer relevant to the issues before me. In this summary I will therefore set forth only that information which I believe is germane to the issue of the tenant's request for a monetary order.

On May 27, 2012 the parties executed a tenancy agreement. The tenancy was supposed to commence on July 4, 2012. The rent was supposed to be \$1,900.00 for the month of July and \$2,400.00 per month thereafter. The tenants paid a security deposit in the amount of \$1,200.00 on May 27, 2012.

As the move-in date approached the tenants claim to have tried to arrange a move-in condition inspection report with the landlord but were unable to get an appointment with the landlord until the afternoon of July 5th. At that time the tenants claim that the landlord then declined to do the move-in report because the house "wasn't ready". As a result, no inspection was ever done. The tenants then proceeded to move some of their things into the garage and subsequently started putting things in the house on July 10th. The tenants claim that when they started moving into the house it was not in the condition they expected it to be and they made repeated phone calls to the landlord to

advise her of their concerns. According to the tenants everything then just “spiralled out of control”. Suffice it to say that there were several unpleasant exchanges between the landlord and/or her representatives and the tenants and things became so bad that the tenants just left the house. The police even became involved at one point. The tenants claim to have returned on July 13th and found the locks changed and a 1 Month Notice to End Tenancy on the door.

On July 18th the tenants sent a letter to the landlord stating that they would not be moving in on the grounds that she was in material breach of the tenancy agreement. The tenant also advised the landlord that they would be pursuing her for compensation relating to moving and “incidentals throughout this entire episode.”

The tenants subsequently returned to the house on August 4th and found the doors unlocked so they went in and collected what they could manage at the time. The tenants then returned on August 5th and 6th to remove the balance of their things.

The tenants never paid any rent for July.

For her part, the landlord claims that the move-in inspection was never completed because the tenants’ demands “became excessive and unreasonable”. The landlord also claims that the whole experience with the tenants caused her “excessive stress and frustration” to the point that she had to ask her son and daughter-in-law to deal with them. The landlord also claims that the tenant withheld rent for July while demanding that she make improvements to the house and caused her to incur additional expenses. The landlord also pointed out that she lost rent for July and August due to the actions of the tenants.

Analysis

The tenants have made a monetary claim comprised of the following:

Scotia Bank stop payment charge	\$25.00
Shaw Cable (installation and 1 month charge)	\$160.64
Canada Post (registered mail charges)	\$32.84
Canada Post (mail redirection)	\$50.40
Movers	\$500.00
TOTAL	\$768.88

In assessing the above claims I am guided by the general principle that a party making a claim of this nature bears the burden of proving that claim on a balance of probabilities both as to liability and amount. In other words, I must be satisfied that the landlord is responsible for the claimant's loss and that the amount claimed is justified.

Scotia Bank (\$25.00) – The tenants put a stop order on their July rent cheque and are claiming the cost of doing so. I am not satisfied that the tenants can say that the landlord is responsible for their decision to do this. This was a decision made by the tenants and may have flowed from their frustration with the landlord but I do not agree that this expense should be borne by the landlord. I dismiss this portion of the tenants' claim.

Shaw Cable (\$160.64) - The tenants paid for cable to be installed at the rental unit and then paid for one month of service. They never got to use the cable and put the blame on the landlord for this fact. However, I am not convinced that the landlord is entirely to blame for things getting as out of hand as they did. To my mind, both parties were responsible for this tenancy coming off the rails. The evidence before me indicates that both parties were extremely stressed by this whole experience and that it became a morass in terms of who committed what breach of the Act and when. As a result, I am not satisfied that I can hold the landlord responsible for this portion of the tenants' claim.

Canada Post (\$32.84) – The tenants paid to have several packages delivered to the landlord by way of registered mail and now claim reimbursement. I must dismiss this portion of the tenants' claim on the basis that the Act does not authorize me to award any costs associated with the bringing of the claim other than the filing fee.

Canada Post (\$50.40) – The tenants have claimed the cost of redirecting their mail. As with the tenants' claim for their Shaw cable, I am not satisfied that I can hold the landlord responsible for this portion of the claim.

Movers (\$500.00) – The tenant have claimed \$500.00 for movers. No invoice has been submitted. But notwithstanding the lack of invoice, I am not satisfied once again, that this tenancy failed due solely to the acts or omissions of the landlord. Accordingly, I find that this part of the tenants' claim must also be dismissed.

In reaching the above conclusions, I am in no way trying to minimize the obvious stress and inconvenience the tenants experienced in this situation. Clearly the tenants did not move all their things into this rental unit with the goal of just removing it mere weeks later. This was a terrible situation. However, that being said, when it comes to making a monetary claim, I must be satisfied that the landlord is liable for the claimant's loss

and this is where I found this case to be most confusing. In the end I was simply not convinced that these costs should be borne by the landlord.

Conclusion

I dismiss the tenants' claim 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*.