



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Concert Realty Services Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing dealt with an application by the tenant seeking a monetary order for money owed or compensation for damage or loss suffered under the Act, the regulation or tenancy agreement. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Is the tenant entitled to a monetary order?

Background and Evidence

The tenancy began on or about September 4, 2012 and is still in effect as of today's hearing. Rent in the amount of \$1135.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$545.00.

The tenant gave the following testimony;

The tenant stated that his suite has been in a state of continual renovation. The tenant stated the landlord has been dealing with plumbing leaks and upgrades "since about six weeks after I moved in". The tenant stated that he has suffered a personal loss in the past year and was looking for a quiet place to live. The tenant stated that he has been constantly disturbed by noise, workmen and dust. The tenant is seeking \$8507.58 as compensation for this inconvenience. That amount claimed includes \$600.00 for coffee purchased at a local convenience store each morning for 120 days, \$2400.00 for eating out every day for 120 days, \$500.00 for moving costs (if he has to move), \$117.38 for hydro, \$2270.00 for cleaning costs, and \$2270.00 for the time the workmen were in his unit.

The landlord gave the following testimony;

The landlord stated that she has been trying to work with the tenant throughout this time. The building was undergoing a proactive re-piping project. The landlord adamantly disputes the amount of disruption caused to the tenant. The landlord stated that all tenants were advised of the ongoing project and steps were made to mitigate and minimize the impact to the tenants. The landlord advised that work was being done with the tenants' schedules in mind. The landlord offered compensation to all tenants that were affected including the subject tenant. The landlord initially offered \$104.56 and then later offered \$350.00 as compensation. The landlord advised that the offer of \$350.00 was still available to the tenant.

Analysis

As explained to the parties during the hearing, the onus or burden of proof is on the party making the claim. In this case, the tenant must prove their claim. When a party makes a claim for damage or loss the burden of proof lies with the applicant to establish their claim. To prove a loss the applicant must satisfy the following four elements:

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the other party in violation of the Act, Regulation or tenancy agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

I spent a great deal of time during the hearing explaining to the tenant the importance of providing "out of pocket costs" to support his claim. The tenant did not provide any receipts or other means of supporting evidence to establish his claim other than one photo that was not helpful. The claims made by the tenant for coffee, meals, moving, cleaning and hydro costs are dismissed without leave to reapply. The tenant indicated that he understood.

The landlord was clear and concise throughout the hearing and was very forthcoming with her efforts in mitigating the impact to the tenant. The landlord has felt throughout the process that the tenant was entitled to compensation but not to the amount the tenant was seeking. The landlord advised that the tenant had approached her seeking one month's free rent as compensation; however when the tenant filed for dispute

resolution the amount escalated to almost nine thousand dollars. The landlord stated that she is concerned as to how the tenant was inflating compensation amounts when the landlord had done as much as possible to minimize the inconvenience.

Based on all of the above I find that the appropriate amount that the tenant is entitled to is the amount as offered by the landlord of \$350.00 as compensation for the re-piping project.

I order that the tenant bear the cost of his filing fee.

Conclusion

The tenant is entitled to a one time reduction of his rent of \$350.00. The rent payable on July 1, 2013 will be \$785.00.

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: June 11, 2013

Residential Tenancy Branch

