



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Downtown Suites
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing was convened in response to an application by the Tenants pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for compensation for loss – Section 67; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Are the Tenants entitled to the monetary amounts claimed?

Are the Tenants entitled to recovery of the filing fee?

Background and Evidence

There is no dispute that the Tenants entered into a tenancy agreement for a unit that they were unable to move into due to a decision by the unit owner not to allow the Tenants pet. The tenancy was to start on August 3, 2012 at a monthly rent of \$1,250. On August 1, 2012 the Tenants were informed that they could not move into the unit.

The Tenant states that as a result of the Landlord’s breach of the tenancy agreement, the Tenant’s incurred losses and claim \$3,353.00 as set out in their monetary worksheet. The Tenant submits that they found temporary furnished accommodation and obtained additional storage time until they were able to find another rental unit in

the same area. The Tenants state that they also had to pay for laundry and parking which had been included in the tenancy agreement for the dispute unit. The Tenants state that as they could not find temporary accommodation that allowed their pet, a family friend kenneled the pet for them and that they paid this friend an amount equivalent to what would have cost at a commercial kennel.

The Landlord states that the Tenants failed to mitigate their losses by refusing to accept their offer of a larger unit on a temporary basis at the same rent level and that the Tenants could leave this unit with no notice. The Landlord states that their offered rental unit is located in a different city bordering the city containing the dispute unit and that the Tenants could leave this temporary with no notice. The Landlord states that they also offered the Tenants compensation of \$500.00 for their storage costs. The Landlord states that the accommodation costs claimed by the Tenants is higher than what the rent would have been or that as the Tenants were staying with family prior to the expected move-in date, they could have continued to stay at this residence and reduce their costs. The Landlord disputes the amount claimed for kennelling the pet as no receipts have been provided for this cost. The Landlord states that there are numerous similar vacant accommodations in the dispute unit neighbourhood and dispute the length of time it took the Tenants to find their new accommodation.

The Tenants submit that the family member they were staying with in advance of the expected move-in did not allow their pet so they could not stay at their family member's home. The Tenants states that the Landlord's offer of alternate accommodation was not in the same city as the dispute unit and was inconvenient. The Tenants state that the loss of the dispute unit occurred while they were in the middle of their exam period and that this caused considerable stress while trying to study and prepare for the exams. The Tenants submit that the Landlord's breach also caused losses to the person who had taken days off work to help them move. It is noted that the Tenants do not claim compensation for their stress or their friend's losses.

Analysis

Section 7 of the Act provides that where a landlord does not comply with the Act, regulation or tenancy agreement, the landlord must compensate the tenant for damage or loss that results. In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that the damage or loss claimed was caused by the actions or neglect of the responding party, that reasonable steps were taken by the claiming party to minimize or mitigate the costs claimed, and that costs for the damage or loss have been incurred or established. Based on undisputed evidence that the Landlord could not provide the unit to the Tenants under a tenancy agreement, I find that the Landlord caused the Tenants to be without the unit they rented. Although I accept that the Tenants were offered another unit for the same rent, I also accept that, given its location, it would have been a great inconvenience to the Tenants. I find that Tenants took reasonable measure to mitigate their losses by finding a temporary and reasonably priced furnished unit in the same location as the dispute unit. I also find that the amount of time taken to find a new rental unit in this area is not unreasonable given the Tenant's pet friendly requirement. I find therefore that the Tenants have substantiated a loss in relation to accommodation costs, storage costs and laundry and parking costs in the amount of \$1,993.00. Given the lack of any evidence to support the costs claimed for kennelling their pet, I dismiss this claim. As the Tenants have been substantially successful with their claim, I find that the Tenants are entitled to recovery of the \$50.00 filing fee for a total entitlement of \$2,043.00

Conclusion

I grant the Tenants an order under Section 67 of the Act for **\$2,043.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

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 28, 2013

Residential Tenancy Branch