



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 an application by the tenant for a monetary order for money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement.

The landlord and his daughter attended the hearing in person at the RTB office, while the tenant called in by teleconference from another city. The landlord, his daughter, and the tenant all gave affirmed evidence.

Issue(s) to be Decided

Is the tenant entitled to a monetary order as claimed?

Background and Evidence

The parties agree the tenancy started May 8, 2009 and the tenant was then obligated to pay rent of \$625.00 monthly. The tenant also paid a security deposit of \$312.50. The tenancy ended May 31, 2012.

The tenant claims the following:

1. Rent overpayment of \$115.00
2. Compensation of \$560.00 because the oven did not work for about 8 weeks
3. Compensation of \$975.00 for alleged harassment by the landlord

Rent Overpayment – The parties agree that the landlord raised the rent more than the maximum allowable amount under Regulation 22 effective July 1, 2010. The maximum allowable rent increase in 2010 was 3.2% which is a \$20.00 monthly increase based on rent of \$625.00. The landlord raised the rent by \$25.00 monthly and the tenant

therefore overpaid rent by \$5.00 per month for the last 23 months of her tenancy. This resulted in a \$115.00 total overpayment.

Stove – The parties agree the oven did not work properly from about April 11th until the end of the tenancy on May 31st (7 weeks and 1 day).

The tenant's evidence is that the landlord was able to get the oven started but it did not heat properly. She says that the landlord refused to have the oven repaired during the time she was living there, because he was under the mistaken impression that she was using the oven to heat the rental unit. The tenant's evidence is that she sometimes left the oven door open immediately after turning it off, to take advantage of the remaining heat, but she did not leave the oven door open while the oven was on.

The tenant gave evidence that she often uses the oven to prepare her meals. She says that, as a result of not having a working oven, she ate in restaurants much more often. She claims \$10.00 per day for 8 weeks, for a total claim of \$560.00.

The landlord's evidence is that the tenant was using the oven to heat the rental unit, and he told her not to. The landlord's notes first indicate a problem with the oven on May 3rd, and the landlord agrees it did not work fully after that. The landlord notes that the tenant continued to have access to the stove top to prepare meals, and suggests the tenant probably did not eat out every day. The landlord notes the tenant did not provide receipts. The landlord's position is that compensation of \$5.00 per day for 30 days would be more reasonable.

The tenant says that she emailed the landlord in early May regarding the oven, after doing some research into oven ignitor switches, but she and the landlord had been discussing the problem since April 11th.

The tenant states she was harassed by the landlord in the last two months of her tenancy. She provided the following evidence:

- On April 12, 2012, the day after she told him about the oven problem, the landlord came to her door and asked her to sign a notice of rent increase. She advised him that it was not necessary that she sign the notice. She says he put his foot in her door and would not let her close the door for a period of time. She was uncomfortable, and contacted the police.
- The tenant says that after that incident, she would say hello to the landlord when she saw him but he did not respond.

- The tenant said that on April 19th, the landlord refused to fix the stove, and on April 22nd, the people above her smelled gas.
- The tenant says that during the move-out inspection on June 1st, the landlord wanted to withhold an amount of money from her security deposit. She feels it was an intimidation tactic, and said he was rude and abrupt about it.
- The tenant says the landlord also wanted her to sign that she received her post-dated cheques back from him, and she felt it was unnecessary to get her signature.

The landlord's evidence is that he did not put his foot in her door when giving her the notice of rent increase on April 11th. He says the police did not contact him regarding the incident. The landlord's evidence is that he always requests that tenants sign to acknowledge receipt of documents, but if they refuse he accepts that.

The tenant gave evidence that the landlord also accused her of doing two things she did not do. Her recycling box was old and dirty and so she requested a new one from the city and crossed out the address on the old one. Also, he accused her of cutting some greenery on the property.

Analysis

I accept the evidence of the parties that the tenant overpaid rent by \$115.00 during the last 23 months of her tenancy. The tenant is entitled to be reimbursed for the overpayment.

I accept the evidence of the tenant that the oven did not work for the last 7 weeks and 1 day of her tenancy, and the landlord did not take adequate steps to repair it. I find the tenant is entitled to some compensation for not having access to an oven for a period of time. I prefer the tenant's evidence regarding the date the oven ceased to work (April 11th) as she appeared to remember the date clearly while the landlord was estimating based on his notes. I agree with the tenant that \$10.00 per day is an appropriate amount to compensate her for the inconvenience and expense of not having an oven for 50 days. I find the tenant is entitled to compensation of \$500.00.

I have reviewed the tenant's evidence regarding the landlord's behaviour toward her, especially in the last 1.5 months of her tenancy. While I accept that there was some tension between the parties at that time, I find the landlord's behaviour does not constitute harassment. According to Residential Tenancy Guideline 6 "Right to Quiet Enjoyment":

“A tenant does not have to end the tenancy to show that there has been sufficient interference so as to breach the covenant of quiet enjoyment, however it would ordinarily be necessary to show a course of repeated or persistent threatening or intimidating behaviour.”

I find that the landlord's behaviour, even if it occurred exactly as the tenant described, is not sufficiently egregious to constitute a course of repeated or persistent threatening or intimidating behaviour. For that reason, I dismiss the tenant's claim for compensation for loss of quiet enjoyment.

In summary, the tenant is entitled to \$115.00 rent overpayment and \$500.00 compensation for the oven not working, for a total of \$615.00. I grant the tenant a monetary order for that amount. 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 for \$615.00.

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 13, 2014

Residential Tenancy Branch

