



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding La Dawn Apartments
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FF, MNDC, MNR, O

Introduction

This is an application for a Monetary Order for \$1550.35.

Some documentary evidence, digital evidence, and written arguments has been submitted by the parties prior to the hearing.

I have given the parties the opportunity to present all relevant evidence, and to give oral testimony, and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

Has the applicant established a monetary claim against the respondent, and if so in what amount?

Background and Evidence

The applicant testified that:

- On April 26, 2014 I lost my keys and therefore could not enter rental unit.
- The landlord and live-in caretaker had given me an emergency number to call, however every time I called (approximately 6 times) the number was unanswered.
- Since I was unable to go into my apartment I had to rent a hotel room for the night.
- The next day I still could not get a hold of the landlords, and therefore I had to use the services of a locksmith to gain entry to my rental unit.
- I believe the landlord should be paying for my hotel costs, locksmith costs, and for the inconvenience of being unable to use my rental unit.
- In September of 2013 there was a leak in the rental property above one of the windows and although the leak was fixed after approximately 2 months, the damage caused by the leak was not fixed for another five months. He therefore had the inconvenience of living with a leak and/or damage from the leak for a period of seven months and believes he should be compensated for that inconvenience.

- Further the leak was not repaired until after he had applied for dispute resolution twice, and review of the original decision twice. He therefore believes the landlord should pay for all filing fees for those dispute applications, review applications, and today's application for the resolution.

The applicant is therefore requesting a monetary order as follows;

Cost of hotel room when locked out of unit	\$125.35
Locksmith services	\$125.00
Inconvenience of being out of rental unit	\$50.00
Inconvenience caused by rain leak and rain damage \$150.00 X 7 months	\$1050.00
Filing fee for first application for dispute resolution	\$50.00
Filing fee for second application for dispute resolution	\$50.00
Filing fee for first application for review	\$25.00
Filing fee per second application for review	\$25.00
Filing fee for today's application for dispute resolution	\$50.00
Total	\$1550.35

The respondent testified that:

- It was the tenants own fault that he was locked out of his rental unit; it was he who lost the keys.
- It's unreasonable to expect the landlord to pay for costs that resulted from the tenants losing his own keys simply because the tenant was unable to get a hold of the landlord to have the landlord opened the door for him.
- As far as the leak is concerned, they believe that the leak was fixed in a timely manner. The roof had been repaired, and therefore they called back the original contractor to fix the leak. The leak itself was fixed two months after it was reported, as soon as they could get the roofing company back.
- He admits that the damage caused by the leak was not repaired for another, approximately, 5 months, however the damage did not cause any loss of use of the rental unit, it was simply a stained area with some water damage.
- He therefore also does not believe that the landlord should be held liable for any loss of use caused by the inconvenience claimed by the tenant.

Analysis

It's my decision that I will not allow the claim for hotel costs, locksmith services, or inconvenience caused by not being able to enter the rental unit when the tenant lost his keys.

These costs were the direct result of the tenant losing his keys, and although the tenant was unable to reach the landlord to gain emergency entry into his rental unit, it's my finding that it's

not reasonable to expect the landlord to pay for costs that resulted from the loss of the tenant's keys.

It is true that the tenant was given a emergency contact number for the live-in caretaker, however it's not reasonable to expect that that caretaker would be available on a 24-hour seven day a week basis to immediately respond to a tenants request to gain access to the rental property

It's also my decision that I will not allow the claim for inconvenience caused by the rain leak and rain damage. I agree that a rain leak is inconvenient, and that damage caused by rain leak may be unsightly, however it's my finding that the applicant/tenant did not have any significant loss of use as a result of this inconvenience.

As far as the filing fees are concerned, I also deny all the claims for filing fees.

On the first application for dispute resolution the applicant/tenant did not appear for the hearing and therefore it's not reasonable that the landlord should pay this filing fee.

With regards to the two applications for review filed by the tenant, they were both dismissed and therefore again it is not reasonable that the landlords should pay these filing fees.

As far as the second application for dispute resolution is concerned, I also deny the claim for the filing fee for that application because at that hearing the parties came to an agreement as a "full and final settlement of all aspects of the dispute arising from the application". As this is a **full and final settlement** the tenant cannot now come back and claim filing fees.

As far as the filing fee for today's application is concerned, I have denied this full claim and therefore it's my finding that the applicant must bear the filing fee himself.

Conclusion

This application is dismissed in full without leave to reapply.

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: October 06, 2014

Residential Tenancy Branch

