



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 the tenant's application for monetary compensation. The tenant and the landlord participated in the teleconference hearing.

The hearing first convened on September 16, 2014. The tenant requested an adjournment, as he was calling from abroad in an active typhoon zone, and the telephone service was unreliable. I granted the adjournment, and the hearing reconvened on November 6, 2014.

At the outset of the reconvened hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is the tenant entitled to monetary compensation as claimed?

Background and Evidence

The tenant and landlord are brother and sister. Prior to the outset of the tenancy, the landlord's brother had visited on several occasions and stayed in the landlord's home as a guest. The tenant and his wife entered into an agreement with the landlord to rent the basement suite in her home commencing April 1, 2014, with monthly rent of \$750. The tenancy ended on May 15, 2014.

The tenant claimed monetary compensation as follows:

- 1) \$652.56 for costs incurred and further compensation when the landlord changed the entry of the apartment and locked the tenant out of the rental unit
- 2) \$299.79 for costs incurred when the landlord removed internet access
- 3) \$400 for loss of peace
- 4) \$187.50 reduction in rent for the poor condition of the rental unit
- 5) \$1000 for cleanup, nuisance, lost sleep and time

6) \$104.95 for storage costs

Lock-out

The tenant stated that at the beginning of the tenancy he was accessing the rental unit through the shared front door of the house. The tenant stated that when he returned from a trip the landlord asked the tenant not to use the front door as an entrance and gave him keys to the back entrance of the suite. The tenant stated that he went out of the suite and when he returned he could not enter through the front entrance because it was locked and he could not enter through the back door either. The tenant stated that he was locked out of the suite for the whole day. The tenant claimed \$152.56 for tools he purchased to get into the suite, and \$500 for his pain, suffering and time during this incident.

The landlord's response was that there was no agreement about the tenant using the front door, and he was to use the back door to access the suite. The landlord stated that after the tenant had sent the landlord "humiliating" emails for about two weeks regarding an incident not related to the tenancy, the landlord did not want the tenant to have access to the front door, so she asked the tenant to return the key to the front door. The landlord stated that the tenant locked himself out. He tried to open the door and could not, and then he went out for the day to attend a seminar. The landlord stated that she was busy because she was hosting her daughter's birthday party at her house that day. She stated that later in the day when the tenant returned she suggested that he try to take the hinges off the door to open it. The landlord stated that she gave no approval for the tenant to buy tools to open the door.

Removal of Internet Access

The tenant stated that at the outset of the tenancy the landlord very clearly indicated that internet access was included, but the landlord then changed the password and the tenant could no longer access the internet. The tenant stated that he needed internet access for his business, and he therefore had to invest in equipment so that he could have internet access.

The landlord responded that she gave the tenant her password for internet access when he was visiting her as a guest. She stated that there was no written or verbal agreement that she would pay for the tenant's internet access as a term of the tenancy agreement. The landlord acknowledged that she changed the password.

Loss of Peace

The tenant stated that it was impossible for him to have any peace during the tenancy because the landlord operated a daycare during the day, and used the washing machine at midnight, when the laundry room is right next to the tenant's bedroom. The tenant stated that the landlord was making efforts to get the tenant out of the property.

The landlord responded that she has been operating a daycare in her home for 10 years, and the tenant was fully aware of that fact. She stated that the tenant made no noise complaints. The landlord denied using the washer at midnight, and stated that the laundry facilities are located far away from the suite.

Reduction in Rent for Poor Condition

The tenant stated that the rental unit was in poor condition and had several defects that the landlord promised to fix but did not. The tenant submitted photographs to illustrate the defects, including one kitchen cabinet missing a door; wires protruding out of a wall; a damaged window blind; and a loose bathroom exhaust fan cover. The tenant also complained about a sink that had been clogged since the beginning of the tenancy.

The landlord responded that a bylaw officer who inspected the unit said there was nothing wrong with it. The landlord stated that the clogged sink was not brought to her attention until the day the tenants were moving out, and the sink was clogged by the tenants with food.

Flooding and Storage Costs

The tenant stated that on May 8, 2014 at 1:00 a.m. there was flooding in their suite, and the landlord never came down and inspected, so the tenant had to call 911. The tenant stated that the fire department identified the leak as coming from the landlord's toilet. The tenant stated that there was a big mess as a result. The tenant claimed storage costs for moving things out of the unit and into storage. The tenant stated that he did not know what might happen because of the leaking from the landlord's toilet, which went on for several months.

The landlord's response was that the leak came from a pipe leading into the toilet, not from the toilet itself. She stated that the fire department knocked on her door at 2:00 a.m. without prior warning. She stated that they told her to turn off the knob and it should be good. She stated that the toilet was then not used until the plumber came to fix it the next day.

Analysis

The relationship between the landlord and the tenant was clearly acrimonious and fuelled by far more than simply tenancy issues. However, as the parties entered into a tenancy agreement, their landlord-tenant relationship was governed by the rights and responsibilities of landlords and tenants set out in the *Residential Tenancy Act*.

I have weighed and considered the evidence of the parties, and on a balance of probabilities I find as follows.

Lock-out

I find that the landlord may have been somewhat remiss in promptly addressing this incident, as she acknowledged her attention was focussed on hosting her daughter's birthday party. The landlord could have promptly entered the unit through the front door and unlocked the back door for the tenant but she did not. However, the tenant did not deny that he was away for at least part of the day attending a seminar. Further, the landlord did not authorize the tenant's purchase of tools to gain entry back into the unit, and the tenant is not entitled to recovery of the cost for the tools. I find that the tenant is entitled to nominal compensation of \$50 for this incident.

Removal of Internet Access

The tenant provided no evidence that internet access was included in his tenancy agreement. Additionally, the tenant's evidence was that he needed internet access for his business, not for personal use. I therefore find that the tenant is not entitled to this portion of his claim.

Loss of Peace

As I indicated above, the relationship between the parties clearly became acrimonious. I find it likely that the landlord did interfere somewhat in the tenant's quiet enjoyment of his unit. A tenant is entitled to quiet enjoyment of their unit, free from interference from the landlord. However, the tenant did not provide sufficient evidence on this point to support more than a nominal award of \$100.

Reduction in Rent for Poor Condition

I find that the "defects" in the rental unit, as depicted in the tenant's evidence, are inconsequential. They posed no safety hazard and were largely cosmetic in nature. If the sink was clogged from the outset of the tenancy, the tenant had an obligation to report that problem to the landlord. I therefore dismiss this portion of the tenant's application.

Flooding and Storage Costs

It is clear that some flooding did occur; however, the tenant appears to have exaggerated the incident. I accept the landlord's evidence that she dealt with the problem promptly. I find no evidence to support the tenant's claim that it was necessary to move his belongings into storage, aside from his concern that he "did not know what might happen." I do not find it likely that there was flooding for several months, as the duration of the tenancy was only six weeks. I therefore dismiss this portion of the tenant's application.

Filing Fee

The claim was mostly unsuccessful and appears to have been motivated mostly by negativity between the parties that was not related to the tenancy. I therefore find that the tenant is not entitled to recovery of the filing fee for the cost of his application.

Conclusion

The tenant is entitled to compensation totalling \$150. The remainder of the application is dismissed.

I grant the tenant an order under section 67 for the balance due of \$150. 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: November 20, 2014

Residential Tenancy Branch

