



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC, OLC, RR, FF

Introduction

This hearing concerns the tenant's application for a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / an order instructing the landlord to comply with the Act, Regulation or tenancy agreement / permission to reduce rent for repairs, services or facilities agreed upon but not provided / and recovery of the filing fee. Both parties attended and gave affirmed testimony. The landlord confirmed that she has been served with the tenant's application for dispute resolution and copies of all related documentary evidence submitted by the tenant. No documentary evidence was submitted by the landlord.

Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

The unit which is the subject of this dispute is 1 of what are 3 bedrooms located on the main floor of a house. Other residents on the main floor of the house include the landlord and her daughter. The tenant, the landlord and the landlord's daughter share kitchen and bathroom facilities located on the main floor. The landlord is not the owner of the house. Another renter resides in the basement portion of the house.

Pursuant to a written tenancy agreement the 7 month term of tenancy is from October 01, 2014 to April 30, 2015. Monthly rent of \$550.00 is due and payable in advance on the first day of each month, and a security deposit of \$275.00 was collected.

Analysis

The landlord testified that for the most part, concerns identified in the tenant's application were not directly brought to her attention until she was served with his application. The various aspects of the tenant's claim and my related findings are set out below.

\$642.24: purchase of a personal television

While “cablevision” is shown on the tenancy agreement as included in the rent, provision of a “television” is not specifically noted. However, there is no dispute that a television is located in the common area of the house and it is available for use by the tenant, the landlord and the landlord’s daughter. Despite this, the tenant purchased his own television which he keeps in his room. The tenant claimed that this purchase arose, in part, from an occasion when the landlord insisted on watching a particular program on the common area television. The tenant also claims that the remote control for the common area television was temporarily hidden from him. For her part, the landlord insists that the television in the common area remains available for the tenant’s use, even while there was a period of time when the landlord was concerned about what she considered was the tenant’s excessive use of that television.

Based on the documentary evidence and testimony, I find that the television in the common area remains available for use by the tenant, on a shared basis with the landlord and the landlord’s daughter. In the case of a shared television, parties may reasonably expect that some negotiation will be required in regard to its use. However, there is no evidence of any formal guidelines having been negotiated between the parties and set out in the tenancy agreement or an addendum to the tenancy agreement. In summary, I find there is insufficient evidence to support the tenant’s claim for reimbursement of the cost for purchasing his own television, and this aspect of the application is dismissed.

\$150.00: Apple box

During the hearing the tenant withdrew this aspect of his application.

\$600.00: loss of use of garage

The tenancy agreement does not specifically provide that parking is included in the rent. It is understood that the landlord uses the driveway for parking, and that the tenant parks his vehicle on the street.

The tenancy agreement provides that “storage” is included in the rent. The tenant testified to his understanding which is that the garage would be available exclusively to him for storage and for use as a “man cave.” The landlord disputes that any agreement was reached in relation to the tenant’s exclusive use of the garage either for storage, or as a “man cave.” The landlord’s position is that the garage remains available to the tenant for storage but on a shared basis with her and her daughter. It is understood that

the renter in the basement portion of the house may also have shared access to the garage for storage.

In the absence of any documentary evidence to support the tenant's claim that an agreement was reached, pursuant to which he would have exclusive use of the garage, I find that this aspect of the application must be dismissed.

\$50.00: approximate cost of kitchen items such as utensils, dishes, pots & pans

A dispute arose between the landlord and the tenant around timely cleaning of shared utensils, dishes, pots & pans. In the result, it is understood that the landlord withdrew the tenant's access to use of certain of the aforementioned items and the tenant then proceeded to purchase some of his own, which are now stored in the kitchen. While I note that the tenancy agreement does not specifically identify that any of the above are included in the rent, I find there was an implied agreement such that the tenant reasonably came to understand that kitchen items would be available for shared use. Accordingly, I find that the tenant has established entitlement limited to **\$25.00**.

\$550.00: loss of use of television and enjoyment

For reasons virtually identical to those set out above under "purchase of personal television," this aspect of the application is hereby dismissed.

\$50.00: filing fee

As the tenant has achieved limited success with his application, I find that he has established entitlement to recovery of half the filing fee in the amount of **\$25.00**.

Fridge(s)

When tenancy began there were 2 fridges located in the common area kitchen. Subsequently, 1 of these fridges was removed. There is no dispute that the tenant has shared use of the 1 remaining fridge, however, he objects to the limited area within this fridge which is available to him. The tenant testified to his understanding which is that the fridge which was removed would be replaced, and that the replacement fridge would be available for his exclusive use. The landlord disputes that there was any such agreement.

While the tenant's application references "my own fridge," his application does not include application for specific related compensation. Following from all of the foregoing, had the tenant's current application included an application for specific

compensation arising from circumstances related to the fridge(s), I would find that there was insufficient evidence to support such a claim and it would be dismissed.

Conclusion

Pursuant to section 67 of the Act, I find that the tenant has established entitlement to compensation in the total amount of **\$50.00** (\$25.00 + \$25.00). Pursuant to section 26 of the Act, I order that the tenant may withhold this amount from the next regular payment of monthly rent.

The tenant's application for an order instructing the landlord to comply with the Act, Regulation or tenancy agreement is hereby dismissed.

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: January 22, 2015

Residential Tenancy Branch

