



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, O

Introduction

This hearing was convened by way of conference call concerning an application made by the landlords for an order determining that the landlords are not responsible for the cost of a new washing machine for the rental unit, and to recover the filing fee from the tenants for the cost of the application.

One of the landlords attended the hearing and gave affirmed testimony, however, despite being served with the Landlord's Application for Dispute Resolution and notice of this hearing by registered mail on December 29, 2014, no one for the tenants attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only participant who joined the call was the landlord. The landlord testified that the documents were served on that date and in that manner and has provided a copy of the Canada Post tracking document showing a tracking number assigned by Canada Post, and I am satisfied that the tenants have been served in accordance with the *Residential Tenancy Act*.

All evidence submitted has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Have the landlords established that the landlords should obtain an order that the tenants should be responsible for the cost of the washing machine?

Background and Evidence

The landlord testified that this fixed term tenancy began on December 15, 2014 and is to expire on November 15, 2015, however the tenants vacated the rental unit without notice on December 31, 2014. Rent in the amount of \$1,500.00 per month was payable in advance on the 1st day of each month, and the tenants paid rent to the end of December, 2014, being half a month. At the outset of the tenancy the landlords collected a security deposit from the tenants in the amount of \$750.00 which is still held in trust by the landlords and no pet damage deposit was collected. A copy of the tenancy agreement has been provided.

The landlord further testified that the tenants claimed that the landlord was responsible for the cost of a new washing machine. The landlords refused to pay for it and made the application for an order preventing the tenants from enforcing any costs associated to it. However, since filing the Application for Dispute Resolution, the tenants have moved out and have provided the landlords with a forwarding address in an email. The tenants moved without notice and have breached the fixed term. The landlords have inspected the rental unit since the tenants moved out and the washing machine is not there.

The landlord contacted the Residential Tenancy Branch who advised that amending the application was possible rather than starting over with the process in order for the landlords to include a claim for loss of revenue and damages. The landlord prepared additional evidence, including a letter explaining the change to the application as well as a monetary order worksheet setting out the landlords' claims. The tenants were served with that package on January 13, 2015 by registered mail, and the landlord has provided another tracking number.

Analysis

The *Residential Tenancy Act* allows a party to amend an application however the *Act* also states that an application must contain the particulars of the claims made. In this case, I am not satisfied that the tenants have been put on notice that the landlords had intended to apply for monetary orders or for an order permitting the landlords to keep the security deposit. Further, where a party makes a monetary claim against other parties, each of the defendants must be served individually. The landlord did not serve the additional evidence on each tenant individually, and I cannot accept the amendment. The landlords are at liberty to file another application for dispute resolution setting out the particulars of the claims and serve the tenants individually with that application, notice of the hearing and all evidence the landlords intend to rely upon to establish any monetary claims made.

With respect to the application before me, the *Residential Tenancy Act* permits me to make any orders affecting the rights and responsibilities of landlords and tenants, including an order that either party comply with the *Act* or the tenancy agreement:

Director's authority respecting dispute resolution proceedings

62 (1) The director has authority to determine

- (a) disputes in relation to which the director has accepted an application for dispute resolution, and
- (b) any matters related to that dispute that arise under this Act or a tenancy agreement.

(2) The director may make any finding of fact or law that is necessary or incidental to making a decision or an order under this Act.

(3) The director may make any order necessary to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or

tenant comply with this Act, the regulations or a tenancy agreement and an order that this Act applies.

- (4) The director may dismiss all or part of an application for dispute resolution if
- (a) there are no reasonable grounds for the application or part,
 - (b) the application or part does not disclose a dispute that may be determined under this Part, or
 - (c) the application or part is frivolous or an abuse of the dispute resolution process.

In this case, it is clear that the parties entered into a written tenancy agreement, but nowhere in that agreement does it specify that laundry facilities are included. I also accept the testimony of the landlord that the landlords have been in the rental unit since the tenants departed and the washing machine is not there. Therefore, I find that the tenants are not entitled to recovery of its cost and the landlords are not responsible for paying the tenants for a new appliance.

Since the landlords have been successful with the application before me, the landlords are also entitled to recovery of the \$50.00 filing fee.

Conclusion

For the reasons set out above, I hereby order that the tenants comply with the tenancy agreement, and I find that the tenants are not entitled to recovery of the cost of a new washer and the landlords are not responsible for paying the tenants for the new appliance.

I further grant a monetary order in favour of the landlords as against the tenants pursuant to Sections 72 and 67 of the *Residential Tenancy Act* in the amount of \$50.00.

This order is final and binding and may be enforced.

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 21, 2015

Residential Tenancy Branch

