



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, ERP, MNDC, OLC, RP, PSF, LAT, RR

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy; a monetary order; and orders for emergency repairs, repairs, to provide services or facilities required by law; to suspend or set conditions on the landlords right to enter the rental unit; to change the locks on the rental unit, to allow a rent reduction.

The hearing was conducted via teleconference and was attended by the tenant; her advocate; the landlord and his agent.

At the outset of the hearing the parties confirmed that the tenant has vacated the rental unit. As such, the tenant confirmed that she no longer sought to cancel the notice to end tenancy or any of the issues raised in her Application that relate to the tenancy continuing. I therefore amend the tenant's Application for Dispute Resolution to exclude the matters of: canceling a 1 Month Notice to End Tenancy; obtaining an order to have the landlord make repairs and emergency repairs to the rental unit; obtaining an order to have the landlord provide services or facilities required by law; obtaining an order to suspend or set conditions on the landlord's right to enter the rental unit; obtaining an order to authorize the tenant to change the locks on the rental unit; and obtaining an order to reduce rent for repairs; services or facilities agreed upon but not provided.

The tenant confirmed she wished to proceed with her monetary claim only.

During the hearing the parties confirmed that the landlord had served the tenant with a documentary evidence package. However, the landlord confirmed that he had not provided copies of his evidence to the Residential Tenancy Branch. I advised both parties that they could proceed with the presentation of their positions and that I would allow the landlord to submit his evidence to the Branch by fax.

The tenant's advocate objected to allowing the landlord to submit his evidence. I advised both parties that as both parties had received each other's evidence and have had a chance to prepare responses to each other's evidence I find that neither party is prejudiced if I obtain the evidence after the hearing is over.

In addition, I heard testimony from both parties that the original tenancy began in one unit (Eagle's Nest) and then moved, at the request of the landlord, to another unit (Trapper's Lair). The landlord stated that he asked her to move because he needed to complete repairs to the first unit. As the parties agreed to the move instead of having the landlord end the tenancy to complete repairs I advised both parties that I would be considering, for the purpose of this Application for Dispute Resolution, the tenancy to be a continuous tenancy and I will therefore consider the tenant's claim for the full 12 month period.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for damages or losses suffered as a result of the tenancy, pursuant to Section 27, 28, 29, 32, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The parties agreed the tenancy began in April 2014 as a month to month tenancy for a monthly rent of \$500.00 due on the 1st of each month with a security deposit of \$250.00 paid.

The tenant seeks compensation in the amount of \$4,204.00. The tenant's claim is broken down as follows:

Description	Amount
Transportation to hospital due to assault (taxi fare \$22.00 two way)	\$44.00
Hydro overpayment - \$30 per month for 12 months.	\$360.00
Potable water - \$150 per month for 12 months	\$1,800.00
Adverse health effects due to landlord and agent's behaviour	\$2,000.00
Total	\$4,204.00

The tenant submitted that the landlord assaulted her in April 2015 when he attended the rental unit without notice to move something out of the storage area. She stated that even though she told him it was not a good time he brushed passed her and she suffered injuries. She sought the cost of return taxi fare and has provided two receipts into evidence.

The tenant submitted that she believes that she had been paying more for electricity than what she was using. She submitted that she thought she paid more because the laundry was on her meter and she didn't use electric heat. Both parties agree that at the time the parties verbally agreed to the tenancy it was to include ½ of the hydro bill.

The landlord submitted into evidence copies of hydro bills for the relevant time periods. The tenant provided receipts for payments made to the landlord in the amounts of \$80.00 and \$100.00. The landlord testified that he had never charged the tenant more

than \$50.00 per month for hydro and explained that the receipts indicated payment over a 2 month period as hydro only bills every 2 months.

The tenant submitted that shortly after she moved into the rental unit she found a notice in the kitchen cupboard that advised not to drink the water. The landlord submits that the notice was an old one that was applicable prior to upgrading his well system. He stated there is nothing wrong with the

The tenant submitted that she was supposed to be receiving bottled water and that the landlord had arranged for a friend to bring her water. The tenant seeks compensation for the provision of potable water.

The tenant also sought compensation for the negative impact the landlord's behaviour, during the tenancy, has had on her health. The tenant testified that the landlord would lose control of his temper; that his responses to any issues raised by the tenant were not proper; and that his behaviour was uncalled for. The tenant suspected that the landlord had entered her unit without her knowledge.

She stated that as a result of his behaviour she was under a lot of stress which can aggravate her condition. The tenant submitted a copy of a letter dated April 23, 2015 from her physician that states:

"I am writing this letter at the request of, and with the permission of, [the tenant]. She has multiple medical problems as well as psychological issues which have declined over the last year. She came in on April 10th stating that she had been pushed by her landlord the day before. At that time, I did examine her, and found that she had pain on her left trapezius and shoulder musculature, pain on range of motion of her left knee, and an abrasion on her left forearm. She has pre-existing osteoporosis and vasculitis and systemic lupus. She has advised of these soft tissue injuries and they were documented in her medical chart."

Analysis

In relation to the tenant's claim regarding compensation resulting from an alleged assault, I find that I have no authority under the *Act* to provide compensation for physical injury resulting from a criminal act. As such, on this matter only I decline jurisdiction on the matter. I dismiss the portion of the tenant's claim for compensation for her injuries related to an alleged assault.

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**

4. Steps taken, if any, to mitigate the damage or loss.

In the case where both parties provide testimony that reflect different plausible interpretations of the same events the party with the burden of proof must provide additional evidence to corroborate her version in support of claim.

In relation to the tenant's claim for an overpayment of hydro over the course of 12 months, I find that the parties agreed at the start of the tenancy that the tenant was responsible for the payment of $\frac{1}{2}$ the cost of hydro. I find that if the tenant had concerns about how the hydro was used or billed she should have determined those issues prior to accepting the terms of the verbal tenancy agreement to pay $\frac{1}{2}$ of the hydro costs.

In addition, the tenant has provided no evidence, based on their agreement that the tenant would be responsible for $\frac{1}{2}$ the hydro, that she has overpaid any amount of this utility.

Section 27 of the *Act* states a landlord must not terminate or restrict a service or facility if the service or facility is essential to the tenant's use of the rental unit as living accommodation or providing the service or facility is a material term of the tenancy agreement. The section goes on to state that the landlord may restrict or terminate a service or facility that is not essential or a material term if the landlord gives 30 days' written notice of the termination or restriction, and reduces the rent in an amount that is equivalent to the reduction in the value of the tenancy agreement resulting from the termination or restriction of the service or facility.

In relation to the tenant's claim for compensation related to the failure to provide potable water, I find that despite the tenant's claim the landlord has provided a plausible response that the warning the tenant found at the start of her tenancy was an old warning. I find also that the tenant provided no confirmation from a local health authority that the water from the landlord's well was unsafe to use or drink.

As a result, I find the tenant has failed to provide any evidence the landlord failed to provide potable water during the tenancy.

In relation to the tenant's claim for compensation for adverse health effects due to the landlord's behaviour, I find the tenant has failed to provide sufficient evidence to establish that the landlord's behaviour was inappropriate or that it had an adverse effect on her health.

While I accept the tenant's physician's letter states that her condition had worsened over the past year however, the letter lacks any specificity regarding how her condition worsened or if there are any other contributing factors to why her condition would have changed.

Conclusion

Based on the above, I dismiss the tenant's Application for Dispute Resolution in its entirety.

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 05, 2015

Residential Tenancy Branch

