



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNDC

Introduction

This hearing was convened by way of conference call in response to the tenant's application for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement.

The tenant and landlord attended the conference call hearing, gave sworn testimony and were given the opportunity to cross examine each other on their evidence. The tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The landlord confirmed receipt of evidence. I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the tenant entitled to a Monetary Order for money owed or compensation for damage or loss?

Background and Evidence

The parties agreed that this month to month tenancy started on August 29, 2014. The landlord rents this house from the owner and had sublet a room to the tenant for a monthly rent of \$600.00. Rent was due on the first each month.

The tenant testified that she had paid rent for the entire month of November, 2014 of \$600.00; the landlord gave the tenant a hand written eviction Notice to evict the tenant from November 15, 2014. The tenant vacated the rental unit on November 16, 2014.

The tenant testified that when she moved into the unit the landlord did not provide a key to the unit as the door was broken and did not lock properly. Around the beginning of November, 2014 the landlord had the door repaired but still refused to give the tenant a key. On a few occasions the landlord did leave the door unlocked so the tenant could gain access to the unit. During November there were 10 days when the tenant could not gain access to the unit because the landlord had not left the door unlocked and the tenant would arrive at the unit and be unable to gain entry and was unable to contact the landlord.

The tenant testified that there was extreme cold at that time of the year. The tenant often had to wait 45 minutes to an hour for a cab to pick her up and take her to a friend's house. On occasions a friend was able to collect the tenant and take her home with her. The tenant testified that she was not always dressed for such extreme temperatures of 20 or 30 below zero and suffered from the cold while waiting for someone to collect her. The tenant testified that while she waited she continually tried to contact the landlord by phone and text messaging. On one occasion she did reach the landlord he texted back to the tenant and said he was out to dinner with his girlfriend and would not come home to let the tenant in. The tenant seeks to recover \$200.00 a day for the days she was unable to gain entry to her unit on November, 02, 04, 05, 07, 11, 12, 13, 14, 15, and 16. This compensation includes the cost for cab fares, gas for her friend's car, food, clothing and accommodation for the days she was locked out of the unit.

The tenant testified that as she had to vacate the unit and had paid rent for the entire month of November; the tenant seeks to recover rent paid for the last two weeks of November to an amount of \$300.00.

The tenant testified that she had to pay rent for a new unit from the middle of November of \$400.00. The tenant seeks to recover that amount from the landlord.

The tenant testified that the landlord's actions in not providing a key to the unit and leaving the tenant unable to access her belongings or her unit for 10 days caused the tenant a great deal of stress and duress particularly being left out in the extreme cold. The tenant seeks compensation of \$1,300.00.

The landlord testified that he had been given three keys for the unit when he rented it. One key went missing and the landlord and his girlfriend each had a key. His girlfriend's key had a 'do not copy' message on it, which left the only key that could be copied being the landlords. The landlord testified that he works a lot and the only two stores in town that could copy a key both had their machines down at that time. The landlord testified that they did not lock the doors until November 01 after the landlord's room was broken into and rifles and other items were stolen. The tenant's son had moved in and this is when this theft occurred. The landlord reported it to the Police but they did not lay charges against the tenant's son. Later the tenant's son was seen wearing the landlord's girlfriend's hoddie which had also been stolen from the landlord's room. The landlord decided after the theft to get the door fixed so it could be locked.

The landlord testified that the tenant never let the landlord know when she was coming home. If the landlord took his girlfriend out for dinner he was not prepared to leave the restaurant to come home to let the tenant in and the tenant could have just gone to a friend's house. The landlord disputed the tenant's claim for compensation of \$200.00 a day for 10 days.

The landlord disputed the tenant's claim to recover rent paid to her new landlord of \$400.00; however, the landlord agreed that they did give the tenant an illegal notice to end the tenancy and this was effective on November 15, 2014, because of this the landlord agreed the tenant is entitled to recover half a month's rent for November of \$300.00.

The landlord disputed the tenant's claim for compensation for stress or duress.

The tenant disputed the landlord's claims. The tenant testified that no charges were made against her son as the landlord had a dog chained up outside which prevented the sliding door from closing and locking. The police had no evidence her son and not some other random person broke into the unit.

The tenant testified that the landlord and his girlfriend could have swopped keys as the landlord's girlfriend only worked part time and could have got a key cut. Furthermore there are more than two places in town that cut keys. The third option would be for the landlord and his girlfriend to share a key and then given the spare one to the tenant.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties. With regard to the tenant's claim for compensation equal to \$200.00 a day for 10 days for being locked out of the rental unit and for the cost of cab fares, gas, food, clothing and accommodation. It is my decision that the landlord must provide a key to a rental unit to allow the tenant to gain access to the unit and her belongings at any time. A tenant should not be made to stand outside in extreme temperatures while a landlord finishes his meal at a restaurant or for any other reason.

However, the tenant has not provided evidence of cab fares, gas for her girlfriend's car, food, and clothing or how much she paid to stay at a friend's house or elsewhere. While I accept it is likely the tenant had to pay cab fares, gas, buy clothing for work, pay for food elsewhere and possibly give a girlfriend a contribution for letting her stay at her house I have no evidence as to the actual amounts paid by the tenant. Consequently, I find the tenant's claim for \$200.00 a day must be limited. I therefore limit the tenant's claim to \$150.00 a day for 10 days to an amount of **\$1,500.00**.

With regard to the tenant's claim to recover \$400.00 in rent paid for her new accommodation. I am not satisfied that the landlord is responsible to pay the rent for the tenant's new accommodation. The landlord did not provide the tenant with a legal notice to end tenancy and therefore it was the tenant choice to vacate the rental unit and find alternative accommodation. This section of the tenant's claim is therefore dismissed.

With regard to the tenant's claim to recover half a month's rent for November. I am satisfied that the tenant paid rent for the entire month of November and had to vacate on November 16, 2014. The landlord does not dispute this section of the tenant's claim to recover \$300.00. I therefore uphold this section of the tenant's claim and award the tenant \$300.00 for half a month's rent for November, 2014.

With regard to the tenant's claim for compensation for a loss of quite enjoyment due to the stress and duress of not being able to access her rental; unit for 10 days in November, 2014. I find the tenant was unduly locked out of her rental unit for 10 days in November; however, the

tenants claim for compensation for being locked out of the unit has been covered above. It is my decision that the tenant has already been adequately compensated for being locked out of her rental unit and therefore no further award will be made for stress or duress.

The tenant is entitled to a Monetary Order for the following amount:

Compensation	\$1,500.00
Half a month's rent for November, 2014	\$300.00
Total amount due to the tenant	\$1,800.00

Conclusion

For the reasons set out above, I grant the tenant a Monetary Order pursuant to Section 67 of the *Act* in the amount of **\$1,800.00**. This Order must be served on the Respondent and may then be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court if the Respondent fails to comply with the Order.

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: July 14, 2015

Residential Tenancy Branch

