



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Regal Tower
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ERP, RP, OLC, PSF, FF

Introduction

This hearing dealt with an application by the tenant for a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement. Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

This was a very contentious hearing. The relationship between the parties is an acrimonious one. Both parties had to be cautioned about their behavior several times. The tenant was especially belligerent and was continuously interrupting the landlord and myself. The parties accused each other of not being truthful.

Preliminary Issue

When the tenant filed his application he was still a tenant at the subject location. Along with the monetary order as outlined above, the tenant also filed seeking an order to have the landlord comply with the Act, regulation, or tenancy agreement, an order to have the landlord make emergency repairs to the unit, site or property for health or safety reasons, an order to have the landlord make repairs to the unit, site or property, and an order to have the landlord provide services or facilities required by law. As both parties confirmed that the tenancy ended on July 29, 2015, I dismiss all the above items except for the monetary claim. The hearing proceeded and completed on that basis.

Issue to be Decided

Is the tenant entitled to a monetary order as claimed?

Background, Evidence

The tenant's testimony is as follows:

The tenancy began on January 1, 2013 and ended on July 29, 2015. The tenant was obligated to pay \$915.00 per month in rent in advance and at the outset of the tenancy the tenant paid a \$450.00 security deposit. The security deposit has been returned to the tenant and is not an issue in this hearing. The tenant stated that the landlord "forced him like a monkey" to pay his rent by money order. The tenant stated that he incurred a cost of \$7.50 to \$8.00 per month X 31 months. The tenant stated that it would take up an hour of his time and that he drove 5 kilometers to the bank and 5 kilometers back. The tenant stated that he should be entitled to "about \$1200.00 or \$1300.00 or \$1400.00, or something like that".

The tenant stated that his bathroom fan did not work throughout his entire tenancy. The tenant stated that his stove rarely worked throughout his tenancy. The tenant stated that there were "major cracks in the ceiling" and that if an earthquake happened, it could be very dangerous. The tenant stated that he asked the landlord to fix these items numerous times and that the landlord would laugh at him or ignore him or tell him to move. The tenant stated that he should get some compensation for this, "around \$1700.00".

The landlord gave the following testimony:

The landlord stated that he disagreed with the tenant. The landlord stated that he requested the rent be paid by cheque or money order. The landlord stated that the tenant paid his rent in cash several times. The landlord stated that he didn't like people leaving cash under the office door if he wasn't there for safety reasons. The landlord stated that he requested that the tenant provide personal post-dated cheques from the tenant but the tenant refused and that the tenant chose to pay by money order. The landlord stated that he at no time ever refused payment from the tenant.

The landlord stated that the bathroom never had a motorized fan and that what the tenant was referring to was just a vent. The landlord stated due to the age of the building, bathroom fans were not installed. The landlord stated that the stove always worked except for one occasion which he had a repairman come and repair it immediately. The landlord stated there were some small cracks in the ceiling but was from the building settling due to its age and that there wasn't any safety risk. The landlord stated that the tenant was unnecessarily concerned about it and that at no time have they had any issues with the ceilings in the building.

Analysis

The tenant has filed an application seeking a monetary order under Section 67 of the Act. Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, **the party claiming the damage or loss bears the burden of proof**. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the tenant to prove on the balance of probabilities that they are entitled to compensation.

The tenant gave a very broad and general version of the events. When I asked the tenant to provide specific amounts to quantify his claim he would often give two or three different numbers as to the amount he was seeking, almost as if he was guessing what he should be entitled to. In addition, the tenants' evidence was challenged and contradicted by the landlords' documentary evidence. The landlord provided evidence that the cheque or money order was simply a request and not a demand. Furthermore, the digital evidence that the tenant submitted and is relying on to depict the broken fan, broken stove and cracked ceiling wasn't helpful.

The digital evidence provided by the tenant did not corroborate his position. The landlord submitted digital evidence that challenged each of those claims. The tenant has not satisfied me of any of the allegations as he's put forth. Based on the erratic and inconsistent testimony of the tenant, the tenant not being able to provide sufficient evidence of the losses as claimed, and on a balance of probabilities, I dismiss the tenants' application in its entirety.

Conclusion

The tenant's application is dismissed 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: August 18, 2015

