



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OLC, LRE, MNDC, MND, MNDC, MNR, OPR, OPL

Introduction

This hearing was convened in response to applications by the landlords and the tenants.

The landlords' application is seeking orders as follows:

1. For an order of possession;
2. For a monetary order for unpaid utilities;
3. For a monetary order for damages;
4. To keep all or part of the security deposit; and
5. To recover the cost of filing the application.

The tenants' application is seeking orders as follows:

1. For a monetary order for loss or damage under the Act;
2. To have the landlord comply with the Act, regulation or tenancy agreement;
3. To suspend or set conditions of the landlord's right to enter the rental unit; and
4. To recover the cost of filing the application.

The tenant LW appeared.

Preliminary matter

Landlords' application

This matter was set for hearing by telephone conference call at 9:30A.M on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the tenant. Therefore, as the landlords did not attend the hearing by 9:40 A.M, and the Tenant appeared and was ready to proceed, I dismiss the landlords' claim without leave to reapply.

Tenants' application

I am satisfied that the landlords were served with the Notice of Hearing and the tenants' Application for Dispute Resolution as the landlords made the request to have both matters heard together.

As the tenant LW, indicated that they have vacated the rental unit, I find it not necessary for me to consider all matters in the tenants' application. Therefore, I find the only issue for me to determine is whether the tenants are entitled to a monetary order.

Issues to be Decided

Are the tenants entitled to a monetary order for damages or loss under the Act?

Background and Evidence

The tenancy began on February 1, 2015. Rent in the amount of \$1,350.00 was payable on the first of each month. The tenants paid a security deposit of \$675.00. The tenancy ended on October 1, 2015. LW testified that they gave the landlord permission to retain the security deposit for unpaid utilities and the window that they broke.

The tenants claim as follows:

a.	Stairs \$50.00 x12	\$600.00
b.	Cleaning	\$160.00
c.	Filing fee	\$ 50.00
	Total claimed	\$810.00

Stairs \$50.00 x12

The tenant LW testified that during their tenancy the stairs were removed in the late July or early August 2015, that gave them access to their rental unit and they had to climb over big holes or use a ladder to access the unit. The tenant testified that repair to the stairs was to take two days, which the landlord agreed to give them a rent reduction of \$50.00 a day; however, the repair took 12 days. The tenants seek to recover the amount of \$600.00.

The tenant was asked for the date the repair commenced and the date the repair was completed, the tenant was unable to provide the dates.

Cleaning

The tenant LW testified that when they moved into the rental unit the premises were not clean. LW stated that they paid the amount of \$60.00 to have the premises cleaned.

The tenant LW testified that do the construction of the stairs it left their rental unit dusty and they had to pay to have it cleaned. LW stated that they paid the amount of \$100.00.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the tenants have the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Stairs \$50.00 x12

The tenants are seeking compensation for loss of use of stairs for 12 days; however, the tenant was unable to provide any evidence on the dates for me determine if the calculation of dates were correct, or any other evidence to support the calculation. I find the tenants' have failed to provide sufficient evidence. Therefore, I dismiss this portion of the tenants' claim.

Cleaning

The tenants are seeking compensation for cleaning when they moved into the rental unit; however, the tenants have not provided any evidence that the unit was not provided to them reasonable clean, such as photographs.

Although I accept the tenants did additional cleaning when they moved into the rental unit; however, that cleaning could have been done to bring the rental unit to a higher standard than required in the Act.

The tenants are also seeking compensation for cleaning after the above repairs were made to the stairs; however, the tenants have not provided any documentary evidence that the unit was dusty as a result of the stairs being repaired, such as photographs or witness statement from the cleaner.

Based on the above, I find the tenants' application must be dismissed due to insufficient evidence.

Conclusion

The landlords' application is dismissed. The tenants' application is 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: October 14, 2015

Residential Tenancy Branch