



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, RP, RR, FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. The tenant stated that the landlord was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on February 2, 2017. The landlord's counsel (the landlord) confirmed receipt as claimed by the tenant. The landlord stated that the tenant was served with their submitted documentary evidence in person on February 22, 2017. The tenant confirmed receipt of the documentary evidence on February 22, 2017, but disputed that it was posted to the rental unit door. The tenant raised no issues in responding to the landlord's evidence. I find that as both parties have attended and have confirmed receipt of the notice of hearing package and the submitted documentary evidence and that no issues regarding service or evidence were raised that both parties are sufficiently served as per section 90 of the Act.

At the outset of the hearing the tenant clarified that the washer was fixed on February 4, 2017 and that an order for repair and an order for a future reduction in rent for the loss of use of the washer is no longer required. The tenant also clarified that his request for an order for the landlord to comply with the Act, regulation or tenancy agreement was not needed as it related to the repair order and the request for a reduction in future rent. As such, these portions of the tenant's application require no further action.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for money owed or compensation for damage or loss and recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on May 1, 2016 on a fixed term tenancy ending on April 30, 2017 as shown by the submitted copy of the signed tenancy agreement dated March 30, 2016. The monthly rent is \$1,550.00 payable on the 1st day of each month. A security deposit of \$775.00 was paid on March 31, 2016.

The tenant seeks a monetary claim of \$400.00 for the loss of use of an appliance (washer). The tenant stated that this claim is based upon a comparison search of the local rental market where similar units without laundry were \$200.00 less per month.

The tenants stated that the landlord responded in an unreasonable amount of time and that the landlord failed to adequately communicate with the tenant. The tenant claims that on December 19, 2016 the washer stopped working and that the landlord was notified on December 21, 2016. The tenant stated repeated attempts to communicate with the landlord went unanswered. Both parties confirmed that the landlord sent a contractor to repair the washer on December 26, 2016. The tenant stated that the contractor referred the tenant to communicate with the landlord about the washer repair.

Both parties agreed that the washer was fixed on February 4, 2017. The landlord has acknowledged that there was a loss of use of the washer, but that the tenant's monetary claim are unreasonable. The landlord claims that she acted reasonably upon being notified on December 21, 2016 and that the contractor was scheduled to attend on December 26, 2016 to fix the washer. The landlord provided undisputed affirmed

testimony that the contractor was trying to source a replacement part in the local market, but was unsuccessful and had to place an order for the part on January 9, 2017. The landlord also stated that the tenant did not actually incur a cost or expense as a result of the loss of use of the washer and have failed to provide any evidence to support their claim that comparable rentals offered are \$200.00 without laundry included.

Analysis

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.

Both parties confirmed that a loss of use of the washer occurred for the period December 19, 2016 to February 4, 2017. I find that the landlord acted reasonably in the circumstances in having a contractor attend to fix the washer within the noted timeframe. However, the landlord would have benefited if more active communication had occurred between the two parties. As such, I find that the tenant has failed to establish his claim of \$400.00 for loss of use of the washer. The tenant did not incur any costs/expenses due to the loss of use, but did suffer an inconvenience. On this basis, I grant an arbitrary monetary award of \$100.00.

As the tenant has only been partially successful, I grant a partial recovery of the filing fee for \$50.00.

Conclusion

The tenant is granted a monetary order for \$150.00.

This order must be served upon the landlord. Should the landlord fail to comply with the order, the order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

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: March 03, 2017

Residential Tenancy Branch

