



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing was convened by conference call in response to an Application for Dispute Resolution (the "Application") made by the Tenant on February 22, 2017 for monetary compensation for damage or loss under the *Residential Tenancy Act* (the "Act"), regulation or tenancy agreement. The Tenant also applied to recover the filing fee from the Landlord.

The Tenant appeared for the hearing and provided affirmed testimony as well as four pages of documentary evidence. The hearing lasted 27 minutes for which time there was no appearance by the Landlord. However, at the conclusion of the hearing an agent for the Landlord dialed into the hearing and explained he was dialing in late because he was travelling and did not have cell phone reception.

The Tenant stated that she had provided her evidence and that she needed to leave the conference call and denied any consent to allow the Landlord's agent to give evidence as the time to do so was over.

The Landlord's agent stated that he was appearing for this hearing to see if the Tenant was going to be moving out of the rental unit because she had been served with a notice to end tenancy and had not paid rent. The Landlord's agent was informed that the Tenant's application before me did not involve any matters relating to unpaid rent or the ending of the tenancy. The Landlord's agent was pointed to the dispute resolution process to deal with these matters. The Landlord's agent made no further submissions.

The Landlord's agent was informed that as he had appeared late for this hearing, and his reason for doing so was not due to exceptional circumstances beyond his control, I would be concluding the hearing and making findings on the Tenant's Application based on the evidence before me. I informed the Landlord's agent that it would be prejudicial to the Tenant to allow him to give evidence when he had appeared late for this hearing and the Tenant needed to leave the conference call to attend to other matters. No objections were raised to this course of action and the parties were informed that the Tenant's Application would be determined in this written Decision.

During the hearing, I allowed the Tenant to withdraw her monetary claim for loss of peaceful and quiet enjoyment of the property. The Tenant had not detailed this portion of the claim in a

Monetary Order Worksheet and only requested compensation for the Landlord's failure to take action when the Tenant lost electricity in December 2016.

In addition, the Tenant stated that she had more evidence of her claim of harassment by the downstairs renter which contributed to her losses but she had not provided this evidence for the hearing. Therefore, I dismissed this portion of the Tenant's claim but provided leave to re-apply. The Tenant was cautioned about the burden she bears to prove that claim.

Issues to be Decided

Is the Tenant entitled to monetary compensation for loss of use of the property due to an electricity outage during December 2016?

Background and Evidence

The Tenant testified that this oral tenancy for the upper portion of the residential home started on June 1, 2016. Rent is payable by the Tenant in the amount of \$1,350.00 on the first day of each month. The Tenant paid a security deposit of \$675.00 at the start of the tenancy which the Landlord holds in trust.

The Tenant testified that on December 24, 2016, the electricity in a portion of rental unit went off. The Tenant went to a neighbor's house and called the Landlord who informed the Tenant that he could not do anything about it because it was Christmas Eve and that the Tenant was at liberty to fix the issue herself. However, the Landlord informed the Tenant that she was not to approach the downstairs renter where the electricity breaker box was located as that renter had been a long time tenant.

The Tenant testified that she attempted to call out an electrician on December 25 and 26, 2016 but because of the holiday season, no one could come out to fix the issue until December 27, 2016. The Tenant provided an invoice for \$84.00 charged by an electrician to fix the issue. The invoice does not state what the exact problem was and what repair was undertaken.

The Tenant testified that the Landlord allowed her to deduct the electrician's cost from her rent which she did. However, the Tenant now seeks compensation from the Landlord for not having electricity for four days in this tenancy. The Tenant testified that during this time she was without a phone, she could not watch television during a holiday period which she celebrated and valued, and lights for a portion of the home rendered those areas useless.

Analysis

In conducting my analysis of the evidence before me in this case, I first turn to Section 32(1) of the Act which requires a landlord to maintain a residential property in a state of decoration and repair.

In this case, I find that when the Landlord was notified by the Tenant of the lack of electricity to part of the rental unit on December 24, 2016, the Landlord had the obligation to deal with the repair in a timely and expeditious manner and not to put this burden on the Tenant. I find this to be gross negligence of the Landlord's responsibility to deal with repairs. Therefore, I find the compensation to the Tenant is warranted.

I have determined that the relief to be provided to the Tenant is to reflect the Landlord's negligence in dealing with the repair and leaving this to the Tenant to deal with during a time that was important to the Tenant. I find that during this time, the lack of electricity caused significant distress to the Tenant who was without light for part of the rental unit, a television, and a phone. Therefore, I grant the Tenant four full days of prorated rent in the amount of \$174.19 $((\$1,350.00 / 31 \text{ days}) \times 4 \text{ days})$.

As the Tenant has been successful in a portion of the Application, I also grant her the filing fee of \$100.00 pursuant to Section 72(1) of the Act. Therefore, the balance payable to the Tenant is \$274.19 $(\$174.19 + \$100.00)$.

The Tenant is issued with a Monetary Order for this amount which is enforceable in the Small Claims Division of the Provincial Court if the Landlord fails to make payment. Copies of the Monetary Order are attached to the Tenant's copy of this Decision. The Landlord may also be liable for any enforcement costs incurred by the Tenant to obtain this payment.

The parties should also note that pursuant to Section 72(2) (a) of the Act, the Tenant may obtain this relief by deducting this amount from a future installment of rent. The Tenant should provide a copy of this Decision to the Landlord if she makes a reduced rent payment for this award.

Conclusion

The Landlord breached the Act by failing to repair an electricity issue in this tenancy. Therefore, the Tenant is granted relief in the amount of \$274.19 inclusive of the filing fee. The Tenant's monetary claim for loss of enjoyment of the rental unit due to alleged harassment and issues with the downstairs renter is dismissed with leave to re-apply.

This Decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: April 26, 2017

Residential Tenancy Branch

