



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

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.

Both parties attended the hearing via conference call and provided affirmed testimony. The tenant stated that both landlords were served with the notice of hearing package and the original submitted documentary evidence via Canada Post Registered Mail on December 16, 2016. The landlords confirmed receipt of these packages. The tenant also stated that a supplementary documentary evidence package was sent by regular mail to the landlords on May 24, 2017. The landlords also confirmed receipt of this package. The landlords stated that their documentary evidence package was sent to the tenant on May 5, 2017 via Canada Post Registered Mail. The tenant confirmed receipt of this package as claimed by the landlords. I accept the undisputed affirmed evidence of both parties and find that both parties have been properly served as per sections 88 and 89 of the Act.

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

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 September 15, 2014 on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated August 7, 2014. The monthly rent was \$1,300.00 payable on the 1st day of each month. A security deposit of \$650.00 and a pet damage deposit of \$375.00 were paid on September 15, 2014.

The tenant seeks a monetary claim of \$1,601.54 which consists of:

\$334.00	Replacement cost of broken reading glasses
\$394.74	Recovery of Utility Costs, Fortis (September 15, 2014 to June 30, 2015)
\$427.80	Recovery of Utility Costs, Hydro (September 15, 2014 to June 30, 2015)
\$445.00	Moving Costs at end of tenancy

In support of these claims, the tenant has provided copies of the receipt for replacement of the reading glasses, 9 pages of spreadsheets detailing utility consumption, 9 pages of invoices for Hydro and 10 pages of invoices for Fortis.

The tenant provided testimony stating that her reading glasses were broken during a suite/house showing by one of the viewers on June 3, 2017. The landlord disputes this claim stating that they were aware of two children that picked up books and soft toys, but that at no time were the children touching the glasses. The tenant argued that the glasses were in good order prior to the showing, but upon returning she found the glasses damaged. The tenant stated that attempts were made to repair the glasses, but that she was informed that repair was not possible.

The tenant provided testimony stating that the basement suite rental usage of utilities from September 15, 2014 to June 30, 2015 were incurred as there is only one utility meter and that the tenant is responsible for. The tenant stated that she was being forced to pay for the basement suite rental utilities. The tenant stated that her calculations based up the submitted copies of the utility invoices, the tenant has incurred extra costs of \$394.74 for Fortis and \$427.80 for Hydro for this period of time. The landlord disputed the tenant's claims stating that the utilities were factored into the calculation of the monthly rent as per the signed tenancy agreement and the signed addendum condition #5 which states in part:

It is understood the rent has been reduced from \$1375.00 a month, to \$1300.00 per month, to reflect the cost associated with the basement tenants use of the electricity and gas.[Reproduced as written]

The tenant provided testimony stating that she suffered an expense of \$445.00 for moving on June 30, 2017 when she vacated the rental unit due to excessive utility costs that she was incurring. The landlord disputed this claim stating that the terms for the utilities were part of the signed tenancy agreement and addendum.

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.

In this case, I accept the evidence of both parties and find that a signed tenancy agreement was made on August 7, 2014 which included a 7 condition addendum which was also signed and dated on August 7, 2014.

On the tenant's first item of claim for compensation of \$334.00 for the cost of replacement reading glasses, I find that the tenant has failed in her claim. The tenant relies on her interpretation of what occurred during a showing of the property. The landlord has disputed this claim. The tenant was unable to provide sufficient evidence to support the claim that the reading glasses were damaged during the showing. As such, I find that this portion of the tenant's claim is dismissed.

On the tenant's second item of claim for compensation of \$394.74 and 427.80 for the cost of overpaid utilities, I find that the tenant has failed in her claim. The tenant argues that she is paying an excessive amount for her utilities due to the basement tenant's excessive usage. The landlords have disputed this claim stating that the signed tenancy agreement dated August 7, 2014 provides for the tenant being compensated by the lowering of the monthly rent from \$1,375.00 to \$1,300.00 per month as the utilities were in the name of the tenant and that there was only one meter for the rental property. I also find that as both parties referred to an online ad which describes the rental unit at a monthly rent of \$1,300.00 plus utilities as shown in the copy of the advertisement provided by the tenant. The landlord has also confirmed that the monthly rent would be \$1,300.00 plus utilities. I find that this confirmed the monthly rent rate of \$1,300.00 with the additional costs for utilities to be incurred by the tenant. The tenant acknowledged that it was her signature on the tenancy agreement and again on the

addendum dated August 7, 2014. I also note that each of the 7 conditions of the addendum page were also initialed by the tenant in acknowledgement. On this basis, I find that the tenant's application for compensation for the utilities is dismissed.

On the tenant's third item of claim for compensation of \$445.00 for moving costs, I find that the tenant has failed in her claim. The tenant provided testimony that she had voluntarily vacated the rental unit on June 30, 2015 as a result of not being able to re-negotiate the terms of the tenancy agreement regarding the utilities. I find that as the tenant had voluntarily vacated the rental unit and that the landlords are under no obligations to renegotiate the terms of the tenancy agreement and the attached addendum that the tenant is not entitled to compensation for moving costs. This portion of the tenant's claim is dismissed.

Conclusion

The tenant's 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: June 16, 2017

Residential Tenancy Branch