



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, O, FF

Introduction

The tenants apply for the cost to replace a gold chain and a gold watch claimed to have been stolen from the rental unit during or as the result of a showing of the premises by the landlord's realtor. They also claim reimbursement for electricity paid to power a yard light.

At hearing the tenants proposed to amend their claim to seek to cancel two ten day Notices to End Tenancy; one Notice received May 24 claiming unpaid rent of \$1795.00, the other, also received May 24, claiming unpaid utilities of \$580.33. The landlord did not agree to the amendment and appears to have filed his own claim (file number shown on cover page of this decision) seeking an order of possession pursuant to the Notices, amongst other relief.

The tenants have not filed an amendment to their claim. The landlord did not have official notice that he would be required at this hearing to address and substantiate the grounds for the two Notices. For those reasons I determined that the tenants' request to amend their claim to challenge the two Notices at this hearing must be refused.

All parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

Issue(s) to be Decided

Is the landlord responsible for the loss of the chain and watch? Are the tenants responsible for the cost of electricity to the yard light?

Background and Evidence

The rental unit is a four bedroom house located on a rural property. The property also contains a four unit "four-plex."

The tenancy started on May 1, 2014. The current monthly rent is \$1795.00, due on the first of each month, in advance. The landlord holds a \$1500.00 security deposit.

The landlord is, or was in the process of selling the home. On April 1 of this year his realtor conducted a showing of the premises to prospective purchasers at about one o'clock in the afternoon.

It was the tenants' habit to absent themselves from the home during showings and they did so this time. They returned at about 4:00 p.m. to find the doors open and no one there.

The tenants testify that upon investigation they determined that a gold chain they value at \$494.09 and a gold watch they value at \$495.00 had been taken from a medicine cabinet in the bathroom. They say they called the realtor and he admitted that he'd left in an emergency and that a child of one of the prospective purchasers had used the bathroom. The tenants called the police. No charges have been laid nor have the items been found.

The landlord testifies that the tenants are making the theft up.

The tenants testify that upon reviewing their Hydro bill they are being charged \$20 to \$25.00 per month for an "unmetered charge" for power to a light on a pole outside the home. They say that tenants in the four-plex also use the road the light illuminates and so the cost incurred over the past three years should be rebated.

The landlord says the light really only benefits these tenants. The four-plex has its own access road with its own light on a pole and he pays the power costs for that one.

The tenants also testify about problems with the pool, its heater, its pipes and about a sliding door. None of these items were raised by the formal application, nor are they alluded to in the Monetary Order Worksheet the tenants filed. For these reasons I refrain from adjudicating them. The tenants are free to re-apply in that regard.

Analysis

The landlord makes the argument that the tenancy agreement requires the tenants to obtain liability insurance. I dismiss this argument. Theft of property would not be covered by a tenant's liability insurance. In any event, had the tenants been insured and had an insurance company reimbursed them for the items, the insurance company would be subrogated to the tenants' claim. The landlord would not avoid liability.

I dismiss the tenants' claim regarding the chain and watch. While the evidence raises suspicion that the items went missing during the showing, suspicion is not enough to surmount the balance of probabilities. The tenants' claim is not supported by firm corroboration or objective evidence. Questions remain: when were the items last seen and who else had been in the home since that time? Who were the viewers? Have they been questioned about a chain and watch coming into the possession of one of their children?

I must also dismiss the tenants' claim for recovery of the hydro costs for the pole light. It has not been shown on a balance of probabilities that the light chiefly services anyone but these tenants. As they are responsible for the hydro, they are responsible for the power consumed by the light that illuminates their drive.

Conclusion

The tenants' claim 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: July 06, 2017

Residential Tenancy Branch