



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding FIRST SERVICE RESIDENTIAL BC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, FF

Introduction

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

- a monetary order for loss pursuant to section 67; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both parties were represented at the hearing and were given a full opportunity to speak, present evidence, call witnesses and submit written evidence. The corporate landlord was represented by its agent, SW (the "landlord"). The co-tenant MV (the "tenant") primarily spoke for both tenants.

As both parties were represented I confirmed there were no issues with service. The parties confirmed receiving respectively, the tenants' application for dispute resolution and evidence and the landlord's evidence package. Pursuant to sections 88 and 89 I find that the landlord was duly served with the tenant's application and each party with their respective evidence.

Issue(s) to be Decided

Are the tenants entitled to a monetary award as claimed?

Are the tenants entitled to recover the cost of this application from the landlord?

Background and Evidence

The parties agreed on the following facts. This periodic tenancy began in April, 2015. The monthly rent is \$1,506.00 payable on the first of each month. A security deposit of

\$685.00 was paid at the start of the tenancy and is still held by the landlord. The tenancy has ended and the tenants have vacated the rental unit.

The rental unit is a townhouse. The tenant testified that they discovered the outdoor light over the parking area was powered by electricity drawn from their residence. The tenant said that they discovered this drain on their power in December, 2016 and attempted to discuss with the building manager. The tenant said that the building manager was not available at that time and they did not follow up to discuss the situation. The tenant issued a letter to the landlord on February 27, 2017 demanding reimbursement of \$5,000.00 for the electricity consumption.

The landlord confirmed that while they initially refuted the tenants' claim they confirmed that the outdoor light was drawing power from the rental unit. The landlord testified that the outdoor light is a 70 Watt bulb that is continuously on. The landlord submitted into written evidence the BC Hydro website Cost Calculator which shows that a bulb of that wattage would cost \$5.28 monthly to use. The landlord said that the tenant resided in the rental unit for 27 months and therefore the excess electricity charge is \$142.56.

The tenant said that they believe the landlord knowingly drew electricity from their residence and their monetary claim is for both the electricity and the inconvenience. The tenant said that they hired an electrician to review the wiring at a cost of \$157.50. The tenant submitted the invoice from the electrician into written evidence. The tenant said that they have had to take time off of work to pursue this matter and have suffered inconvenience and stress.

The parties testified about an altercation on June 9, 2017 which became heated. The tenant said that the aggressive attitude of the landlord should give rise to damages.

Analysis

Section 67 of the *Act* allows me to issue a monetary award for loss resulting from a party violating the *Act*, regulations or a tenancy agreement. 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 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. The claimant also has a duty to take reasonable steps to mitigate their loss.

I accept the undisputed testimony of the parties that electricity was being drawn from the rental unit to power a light in the parking area. The tenancy agreement signed by the parties does not state that the tenants are responsible for the electricity in the parking area. Consequently, I find that there was a breach of the agreement when the landlord drew electricity from the rental unit to power the parking area light.

I accept the landlord's undisputed evidence that the light was an 80 Watt bulb. I accept the landlord's calculation that based on the BC Hydro website the monthly cost for powering this lightbulb is \$5.28 and the total cost for the 27 month tenancy is \$142.56. Accordingly, I find that the tenants are entitled to a monetary award in this amount.

I find there is insufficient evidence to support the balance of the tenants' monetary claim. The tenants provided little evidence in support of their claim for lost income or the effect that paying the excess electricity bill had on them. I do not find it reasonable that the extra cost of approximately \$6.00 monthly had a significant effect on the tenants standard or living. I find that any time the tenant has taken off from work and the cost of the electrician retained in June, 2017 to be costs related to pursuing the present application. The costs incurred in preparation for a dispute resolution hearing are not costs recoverable under the *Act*.

I do not find there to be sufficient evidence that the tenants suffered a loss of enjoyment of the rental unit attributable to the landlord's breach of the *Act*, regulations or tenancy agreement. I do not find the altercation between the parties on June 9, 2017 to have any bearing on the present application. The event occurred significantly after the tenants had filed their present application.

While the tenants were unsuccessful in their full claim, I do find that this application had some merit. Therefore, I find that the tenants are entitled to recover \$50.00, half of the filing fee for this application, from the landlord.

Conclusion

I issue a monetary order in the tenants favour in the amount of \$192.56 which allows the tenants to recover the excess electricity usage and filing fee for this application from the landlord.

The tenants are provided with a Monetary Order in the above terms and the landlord must be served with this Order as soon as possible. Should the landlord fail to comply

with this Order, this 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: August 29, 2017

Residential Tenancy Branch