



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF MNDC O

Introduction

This hearing was scheduled to hear the tenants' application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a Monetary Order pursuant to section 67 of the *Act*;
- an Order directing the landlord to comply with the *Act*; and
- a return of the filing fee pursuant to section 72 of the *Act*.

Both the tenants and the landlord attended the hearing. Both parties were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The tenants gave sworn testimony that an Application for Dispute Resolution and evidentiary package were sent by way of Canada Post Registered Mail to the landlord on March 15, 2017. The landlord acknowledged receipt of this package. Pursuant to sections 88 & 89 of the *Act* the landlord is found to have been served with these documents in accordance with the *Act*.

Issue(s) to be Decided

Are the tenants entitled to a Monetary Award?

Should the landlord be directed to comply with the *Act*?

Can the tenants recover the filing fee?

Background and Evidence

Testimony was provided by both parties that this tenancy began in September 2014 and ended in September 2016. Rent was \$1,952.00 and no pet or security deposits were collected.

The tenants explained that they sought a Monetary Order for \$8,760.00 in relation to strata payments they made on the landlord's behalf. The tenants testified that their tenancy with the landlord originated as a family affair, with their understanding of the arrangement being that this tenancy would be a long term rental between the parties.

During the course of the hearing the tenants acknowledged that the strata fees were not part of the tenancy agreement but they explained the fees were paid in good faith because as mentioned previously, they understood that their tenancy was to be a long term rental agreement. Furthermore, they stated that they sought to relieve some of the financial burden associated with the ownership of the property from the landlord by paying these fees, and they hoped to safeguard their tenancy because they had concerns the landlord could not afford to pay the strata fees.

Analysis

My powers as an arbitrator derive from sections 9(1), 9(2) and 9(5)(b) of the *Act*. These sections read:

The director is responsible for the administration and management of all matters and persons appointed or retained under this *Act*...Employees may be appointed under the *Public Service Act*, and the director may retain other persons, whom the director considers necessary to exercise the director's powers and perform the director's duties and functions under this *Act*...The director may help landlords and tenants resolve any dispute in relation to which an application for dispute resolution has been or may be made.

Dispute resolution is governed by section 58(1) of the *Act* which says:

Except as restricted under this *Act*, a person may make an application to the director for dispute resolution in relation to a dispute with the person's landlord or tenant in respect of any of the following:

- (a) Rights, obligations and prohibitions under this *Act*;
- (b) Rights and obligations under the terms of a tenancy agreement that
 - (i) are required or prohibited under this *Act*, or
 - (ii) relate to
 - (a) the tenant's use, occupation or maintenance of the rental unit, or
 - (b) the use of common areas or services or facilities.

Section 67 of the *Act* reads, “If damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.”

I find, based on the evidence presented at the hearing, that the payment of these strata fees was not a right or an obligation under the *Act*, the regulations, or a term and condition listed under the terms of the tenancy agreement. I therefore have no authority to provide the remedy sought by the tenants in this matter.

As the tenants were unsuccessful in their application, they must bear the cost of their own filing fee.

Conclusion

The tenants’ application for a monetary award 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: August 25, 2017

Residential Tenancy Branch