



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application from the landlords pursuant to section 72.

While the tenants attended the hearing by way of conference call, the landlords did not. I waited until 2:13 p.m. to enable the landlords to participate in this scheduled hearing for 2:00 p.m. The tenants were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenants provided sworn, undisputed testimony that they had served the landlords with their application for dispute resolution hearing package ("Application") and evidence on February 24, 2017 by way of registered mail. The tenants provided the tracking information in their evidence. In accordance with sections 88, 89, and 90 of the *Act*, I find that the landlords were deemed served with the Application and evidence on March 1, 2017, five days after mailing.

Issues(s) to be Decided

Are the tenants entitled to monetary compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Are the tenants entitled to recover the filing fee for this application from the landlords?

Background and Evidence

The tenants provided the following sworn, undisputed testimony as the landlords did not attend the hearing. This tenancy began on August 1, 2015 with monthly rent set at \$1,750.00. The tenants moved out on November 17, 2016.

The tenants are seeking monetary compensation in the amount \$1,833.00 for damage caused to their vehicle during this tenancy. The tenants testified that on November 3, 2017, the tenants notified the landlords that the garage door was stuck. The tenants testified that the landlords' son responded that they were aware of the problem, and would repair the garage door.

On November 4, 2017 the tenants were leaving the garage when the garage door was stuck again. The door then slammed on their vehicle, damaging the vehicle. The tenants notified the landlords, who replied that they would compensate them through their insurance. The tenants sent an email to the landlords on November 7, 2017, with an attached estimate for the repairs to their vehicle. The estimates and email were included in the tenants' evidence for this hearing.

The tenants provided, in evidence, a copy of the written tenancy agreement, as well as digital photos and a video to support their claim that their car was damaged by the garage door. The tenancy agreement indicates that parking was included in the monthly rent for this tenancy.

The tenants made repeated attempts to communicate, and resolve the matter with the landlords, and the landlords responded that they would discuss the matter and requested more time, but as of the hearing date tenants have not received any kind of resolution or response to their request.

Analysis

Section 32(1) of the *Act* outlines the following obligations of the landlord and the tenant to repair and maintain a rental property:

32 (1) *A landlord must provide and maintain residential property in a state of decoration and repair that*

(a) complies with the health, safety and housing standards required by law...

Section 65(1)(c) and (f) of the *Act* allow me to issue a monetary award to reduce past rent paid by a tenant to a landlord if I determine that there has been "a reduction in the value of a tenancy agreement."

I have considered the undisputed testimony of the tenants, as the landlords did not attend this hearing. I accept the tenants' testimony that as a result of the landlords' failure to take the necessary steps to maintain the property in a state of repair that complies with the health, safety and housing standards required by law, the tenants were faced with damage to their vehicle. The tenants provided, in their evidence, estimates as well as photos and video footage to support that the landlords had failed in their obligations.

The tenants testified that they had communicated to the landlords that the garage door required repairs, but the landlords failed to perform the necessary repairs. As part of their monthly rent,

parking was included as part of the tenancy agreement, and the tenants were entitled to use the parking space during this tenancy where this damage had occurred. On this basis, I find that the landlords failed to fulfill her obligations as required by section 32(1) of the *Act* as stated above, and the tenants are entitled to compensation for the loss that was a result of this failure.

I accept the estimates submitted by the tenants to establish the value of this loss, and I find that the tenants are entitled to monetary compensation in the amount of \$1,833.01.

As the tenants have been successful in their application, I find that the tenants are also entitled to recover the filing fee from the landlords.

Conclusion

I issue a Monetary Order in the amount of \$1,933.01 in the tenants' favour in compensation for the landlords' failure to comply with section 32(1) of the *Act*, and which allows for the recovery of the filing fee for this application.

The tenants are provided with this Order in the above terms and the landlords must be served with a copy of this Order as soon as possible. Should the landlords 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 18, 2017

Residential Tenancy Branch