



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

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; and
- authorization to recover the filing fee for this application from the landlords pursuant to section 72.

The landlord did not attend this hearing which lasted approximately 10 minutes. The tenant appeared and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenant testified that he served his application for dispute resolution dated May 10, 2017 on the landlord by registered mail on that date. The tenant provided a Canada Post tracking number as evidence of service. I find that the landlord was deemed served in accordance with sections 89 and 90 of the *Act* on May 15, 2017, five days after service. The tenant filed an amendment to his application on September 25, 2017, lowering the monetary amount of his claim, which he testified was served on the landlord by a courier. I find that the landlord was deemed served in accordance with section 89 and 90 of the *Act* with the tenant's amendment to his application.

Issue(s) to be Decided

Is the tenant entitled to a monetary award for damages and loss?

Is the tenant entitled to recover the filing fee of this application from the landlord?

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the tenant, not all details of the respective submissions and/or arguments are reproduced here. The principal aspects of the tenant's claims and my findings around each are set out below.

This tenancy began in August, 2014 and ended April, 2016. There was a previous hearing in regards to this tenancy under the file number on the first page of this decision.

The tenant submitted into written evidence over a hundred pages of materials. The materials include email correspondence between the tenant and landlords, photographs, copies of invoices, portions of a police incident report from a complaint made by the tenant, the decision from the previous hearing, and written submissions. Most of the pages of written evidence contain hand written notes by the tenant and specific phrases and sentences are underlined, circled and marked up.

The tenant testified that he is seeking a monetary award of \$13,672.00 for various losses and damages the tenant and his family incurred throughout the tenancy and during the course of the earlier disputes. The tenant's claim includes monetary claims for the landlord's delay in complying with previous monetary orders, repairs that were not performed in a timely manner or at all, and what the tenant characterizes as pressure and abuse.

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 find that there is insufficient evidence to conclude that the tenant has suffered any damage or loss that arises from the landlord's violation of the *Act*, regulations or tenancy agreement. It is clear from the correspondence submitted into written evidence that the parties have an antagonistic relationship. There are accusations, demands and threats from both parties throughout the written materials. I do not find that acrimonious

email exchanges and the tenant's handwritten editorial notes to be sufficient evidence that would give rise to a monetary award.

The tenant submits that the landlord did not provide services, perform repairs or maintain the rental property during the tenancy. A significant portion of the email exchanges submitted into written evidence is complaints and demands being made by the tenant. However, I find that subjective complaints are insufficient to conclude that there was a breach which would give rise to a monetary award. I find that there is little probative value in these records of accusations and arguments in establishing the tenant's entitlement to a monetary award. I do not find that the handwritten remarks and annotations added to the emails after the fact to be persuasive.

There is insufficient evidence to show that the costs borne by the tenant such as the invoices submitted by the tenant for gardening work was a result of a breach by the landlord. I find that the tenant's calculations for his claims are not supported in the evidence.

I find that the tenant has failed to show on a balance of probabilities that they suffered any damage or loss, or that any damage or loss was caused by the landlord's breach of the Act, regulations or tenancy agreement. Consequently, I dismiss the tenant's application.

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: October 11, 2017

Residential Tenancy Branch