



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, OLC, PSF, LRE

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;
- an order that the Landlord comply with the Act, regulations or tenancy agreement pursuant to section 62;
- an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65; and
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70.

The landlord did not attend this hearing which lasted approximately 20 minutes. The tenant attended the hearing, with the assistance of her family member and was given full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenant testified that she served the landlord with the tenant's application for dispute resolution and evidentiary materials on October 21, 2017 in person. The tenant's family member was a witness to the service on that date. I find that the tenant's application for dispute resolution and evidentiary materials were served on the landlord in accordance with sections 88 and 89 of the *Act* on that date.

Issue(s) to be Decided

Is the tenant entitled to a monetary award for damages as claimed? Is the tenant entitled to rent reduction as claimed?

Should the landlord be ordered to comply with the Act, regulations or tenancy agreement? Should the landlord's right to enter the rental unit be restricted?

Background and Evidence

The tenant provided undisputed evidence regarding the following facts. This tenancy began in May, 2016. The monthly rent is \$900.00. A security deposit of \$450.00 was paid at the start of the tenancy and is still held by the landlord.

The tenant testified that the rental unit has seen an infestation of rodents and the landlord has failed to take any action despite being informed of the problem. The tenant submitted into written evidence various photographs of damage to the rental unit which she attributes to the rodent infestation. The tenant said that because of the infestation she has been unable to reside in the rental unit for the past four months. The tenant submitted into written evidence photographs of money and a bank receipt which she said was rent paid to the landlord despite being unable to reside in the rental unit. The tenant said that the landlord has failed to take any action and that she has been forced to buy traps, hire pest control and suffer financial losses to deal with the issue.

The tenant said that the landlord has entered the rental unit on multiple occasions without prior notice or authorization by the tenant. The tenant submitted as evidence of the landlord's presence in the suite hand written notes which the tenant said were left inside of the rental unit.

The tenant testified that her relationship with the landlord has been antagonistic. The tenant said the landlord has made insulting comments, threats and aggressive behavior against her.

The tenant seeks a monetary award of \$3,776.00 which includes recovery of rent for the period which she was absent from the rental unit, the cost of various pest control measures and the general disruption to her quiet enjoyment of the rental unit.

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 the tenant has provided insufficient evidence in support of her claim. The tenant testified that she has reported the pest infestation to the landlord on multiple occasions. She has submitted into written evidence an unsigned word document in support of her claim that she has informed the landlord. I find a word document to be of little probative value. There is no evidence that the document was ever printed, emailed or otherwise submitted to the landlord. The tenant claims that she had no recourse but to retain a pest control company herself and pay for traps and maintenance. I find that there is insufficient evidence to conclude that the losses the tenant claims were suffered as a result of the landlord's negligence.

I find that little weight can be placed on the various photographs submitted by the tenant. The tenant provided little explanation of who took the photographs, the date they were taken, the circumstances or what facts the photographs are meant to support. I find that images of rodent droppings and walls are of little value without contextual information.

Even if I were to accept the photographs as evidence that there are rodents in the rental unit I find that the tenant has failed to show on a balance that the rental unit was uninhabitable. The tenant testified that she could not remain in the rental unit for four months. She said that she has paid the full rent for those months and submitted photographs of one-hundred dollar bills as evidence of rent payment. I find that photographs of money to be insufficient evidence that rent was paid. I further find that the tenant has provided insufficient evidence to show that she was unable to occupy the rental unit.

I find that the tenant has not shown on a balance of probabilities that she has suffered any damage or loss or, that any loss is attributable to the landlord's contravention of the Act, regulations or tenancy agreement. I dismiss the tenant's claim for a monetary award.

The tenant provided a photograph of a note from the landlord which she testified was left for her on the table while she was out. However, I find that a hand-written note is insufficient evidence that the landlord entered the rental unit without authorization. The claimant bears the onus of proving their claim on a balance of probabilities. I find that the submission of a photograph of a note and the tenant's testimony that the landlord entered the rental unit without authorization to leave that note to not meet that standard. I find that the tenant has not shown the landlord has breached the Act, regulations or tenancy agreement or that there is reason to restrict the landlord's right to enter the

rental unit in accordance with the *Act*. Accordingly, I dismiss this portion of the tenant's claim.

Conclusion

The tenant's application is dismissed without leave to reapply.

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: January 4, 2018

Residential Tenancy Branch