



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RR, FF

Introduction

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

- an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The two landlords, female landlord ("landlord") and "male landlord," and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that she had permission to speak on behalf of the male landlord as an agent at this hearing (collectively "landlords"). This hearing lasted approximately 72 minutes in order to allow both parties to fully present their submissions. I note that the tenant spoke for most of the hearing time.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package and the tenant confirmed receipt of the landlords' written evidence package. In accordance with sections 88, 89 and 90 of the *Act*, I find that both landlords were duly served with the tenant's application and the tenant was duly served with the landlords' written evidence package.

Issues to be Decided

Is the tenant entitled to an order to allow her to reduce rent for repairs, services or facilities agreed upon but not provided?

Is the tenant entitled to recover the filing fee for this application?

Background and Evidence

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

Both parties agreed to the following facts. This tenancy began on November 1, 2014 for a fixed term ending on October 31, 2015, after which it became a month-to-month tenancy. Monthly rent in the current amount of \$929.00 is payable on the first day of each month. A security deposit of \$425.00 was paid by the tenant and the landlords continue to retain this deposit. A written tenancy agreement was signed by both parties and a copy was provided for this hearing. The tenant continues to reside in the rental unit.

The tenant seeks a rent reduction of \$200.00 total and to recover the \$100.00 filing fee paid for this application. She seeks \$10.00 per day for a period of 20 days, totalling \$200.00, for a loss of use of laundry services and a loss of use of the intercom at the rental building.

The tenant said that a line connecting both the intercom and laundry card reload machine at the rental building was disconnected by a company servicing the building from November 16 to December 5, 2017. She stated that although it was not the landlords' fault that the line was disconnected, these were still essential services that she was entitled to as part of her rent and tenancy agreement. She claimed that she suffered frustration and it wasted her time to deal with these issues for 20 days. She said that she alerted the landlords verbally and then issued a written letter, dated November 30, 2017, requesting compensation of \$100.00. She explained that the issues continued from November 30 to December 5, so requested an additional \$100.00.

The tenant testified that she lost use of the intercom for 20 days so she had to make arrangements with her friends and family members using social media before they came over to her rental unit. She said that she lives on the second floor of a three-floor building so she would have to walk or take the elevator down one floor to retrieve her guests instead of using the intercom. She stated that it was inconvenient and it occurred more than a dozen times but she was unable to provide the specific dates. She claimed that she often watches her grandson at her rental unit.

The tenant stated that she was unable to use the laundry machines at the rental building due to the line disconnection. She said that the laundry machines are operated

by a smart card that has to be reloaded with money at the rental building. She claimed that people who already had money loaded on the card could use the machines but those who did not have money loaded, such as her, could not use the machines. She stated that she had to walk to a nearby laundromat, which was five minutes away, in order to do her laundry and she had to stay there so no one would steal her clothes. She said that she did not have the freedom to leave her clothes and go back to her rental unit, like she would if using the laundry machines in the rental building. She claimed that when she reported the issue to the landlords, she was not informed by them until November 30, 2017, that she could reload her laundry card at another location outside of the rental building, which she says she could only reach by public transit.

The landlords dispute the tenant's claim for compensation of \$200.00. The landlord agreed that the line for the intercom and laundry card reload machine was disconnected from November 16 to December 5, 2017, but said it was out of the landlords' control. She stated that the tenant failed to show how the intercom and laundry were essential services, since they are not heat, water, electricity, or anything related to the tenant's health.

She testified that the building was sold to a new owner on November 16, 2017 and the services were not transferred over. She claimed that she did not find out there was a problem until a few days after when someone notified her that the laundry card reload machine was not working. She said that she called a technician in to find out what the problem was, and that he told her the line was disconnected, which is when she discovered that the same line was connected to the intercom system in the building. She testified that she called the company that serviced the line, they told her they would come on November 28, 2017 to fix it, and that they would try for an earlier date if possible. She claimed that the company failed to show up on November 28, so she switched to another company and they also failed to show up on the planned date, coming a day later instead.

The landlord explained that she notified the tenant about a laundromat around the corner from the rental building. She said that another tenant in the rental building told her about another laundry card reload location so the landlord researched the location and advised the tenant.

Analysis

Pursuant to section 67 of the *Act*, when a party makes a claim for damage or loss, the burden of proof lies with the applicant to establish the claim. To prove a loss, the tenant must satisfy the following four elements on a balance of probabilities:

1. Proof that the damage or loss exists;
2. Proof that the damage or loss occurred due to the actions or neglect of the landlords in violation of the *Act*, *Regulation* or tenancy agreement;
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage; and
4. Proof that the tenant followed section 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage being claimed.

I dismiss the tenant's claim of \$200.00 for a rent reduction without leave to reapply.

I find that the tenant failed part 2 of the above test because she was unable to show that the landlords wilfully or negligently violated the *Act*, *Regulation* or tenancy agreement. The tenant even stated in her own testimony that it was not the landlords' fault that the line was disconnected. It is clear in the landlord's testimony that the issue was outside of the landlords' control and they attempted to have a technician and two different companies come in to fix the issue as soon as possible. It is also evident that the original company did not show up as planned so the landlords used a different company, that eventually fixed the line a short 20 days after the disruption.

I find that the tenant failed part 3 of the above test because she was unable to justify the amount being claimed for her loss. She said that she found two previous Residential Tenancy Branch ("RTB") decisions which talked about laundry and intercoms being essential services, where compensation of \$10.00 for the loss of use of both services was awarded per day. Yet, she did not provide a copy of these two decisions to the landlord or the RTB to support her application so I do not know the cases she is referencing, the context of such cases or whether they are similar to the tenant's case. I am also not bound to follow previous RTB decisions.

When I asked the tenant to explain the justification for the amount being claimed, she became upset by my questions. She said that she did not "randomly" pick the amount of \$10.00 per day for both services. She claimed that it was about the "principle" not the money. She stated that she did not know and was not worried about the cost of the laundromat fees, where she had to do her laundry. She said that she was agreeable to walking there because it was only five minutes away but was annoyed that the service had been taken away and that she had to wait for her laundry to finish. She said that the intercom caused frustration with one delivery that was supposed to be made to her

and she had to fight on the phone with the company for one hour about it. She claimed that she had to pre-arrange for her guests to come over and then retrieve them, one floor down, when they arrived.

I find that the tenant failed to show the value of such losses, that the services were essential to her tenancy, or how she suffered during the short 20-day period of disruption.

As the tenant was unsuccessful in this application, I find that she is not entitled to recover the \$100.00 filing fee from the landlord.

Conclusion

The tenant's entire 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: March 2, 2018

Residential Tenancy Branch