



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

FF, MNDC, MNR

Introduction

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

- a monetary order for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for its application from the landlord, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The landlord acknowledged receipt of evidence submitted by the tenant. The landlord did not submit any documentation for this hearing.

Issue to be Decided

Is the tenant entitled to a monetary order as claimed?

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

Background, Evidence

The tenants' testimony is as follows. The tenancy began on April 1, 2015 and ended on June 3, 2017. The tenant testified that there is a lightbulb in the loft portion of the home that doesn't have a cover. The tenant testified that she put a towel over it to block out the light as she does shift work. The light bulb caught fire and caused fire damage to the unit. The tenant testified that the landlord refused to use her home insurance to cover the \$588.00 of damage and seeks to be compensated for it. The tenant testified that during her entire tenancy, heat and hot water was an issue.

The tenant testified that she is seeking \$2600.00 for lack of hot water which she calculated at \$100.00 per month that she lived there. The tenant testified that she advised the landlord of this issue numerous times. The tenant is also seeking \$550.00 for the lack of heat. The tenant testified that she paid an extra fifty dollars a month for the radiant heating which never worked.

The tenant provided a calculation of the winter months when the heat wasn't working and the increased rate of paying for it. The tenant is also seeking the recovery of the \$100.00 filing fee.

The tenant is seeking the following amounts

Fire Damage Repair	\$588.00
Lack of Hot Water	\$ 2600.00
Lack of Heat	\$550.00
Filing Fee	\$100.00
	\$
	\$
Total:	\$3838.00

The landlord gave the following testimony. The landlord testified that she adamantly disputes the tenant's entire claim. The landlord testified that the tenant caused the fire and doesn't understand why she wants her to pay for the repair. The landlord testified that the parties were friends and that the tenancy was a good one up until the landlord issued a notice to end tenancy as she decided to move into the coach home after her husband had passed away. The landlord testified that prior to that, any issues that the tenant brought to her attention were addressed quickly without any further problems. The landlord testified that all repairs were done as needed.

Analysis

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

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. **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 provide **sufficient evidence of the following four factors**; the existence of the damage/loss, that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party, the applicant must also show that they followed section 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage being claimed, and that if that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I address the tenant's claim and my findings as follows.

Fire Repair Damage - \$588.00

In the tenant's own testimony she stated that she put a towel near the lightbulb which caused the damage. The damage was caused as a direct result of the tenants' actions which I find was negligent; accordingly, this portion of her claim is dismissed.

Lack of Hot Water – \$2600.00 & Lack of Heat \$550.00

The landlord testified that anytime an issue was raised by the tenant, it would be repaired in a timely manner. The landlord testified that the tenant lived in the home for over two years and the heat and hot water wasn't an issue until she served the tenant a notice to end tenancy. The landlord testified that she immediately conducted the repairs as suggested based on the plumbing inspection arranged by the tenant. The tenant has not provided sufficient evidence to show that the landlord was negligent in their duties or that the landlord was in contravention of the Act and the tenant did not provide sufficient evidence to show what steps she took to mitigate; such as letters or emails outlining her issues or concerns.. As the tenant has not satisfied all four grounds as noted above, I must dismiss this portion of her application.

The tenant has not been successful in her application.

Conclusion

The tenants' application is dismissed in its entirety 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: April 04, 2018

Residential Tenancy Branch