



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *CNR, MNDC, OLC, ERP, PSF, RR, FF*

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for an order to set aside a notice to end tenancy for unpaid rent and for a monetary order for compensation and the filing fee. The tenant also applied for an order directing the landlord to comply with the *Act*, provide services, carry out repairs and reduce rent.

Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. Both parties represented themselves. The landlord's agent attended and assisted the landlord.

As both parties were in attendance I confirmed service of documents. The landlord stated that she had not received tenant's evidence. The tenant provided a tracking number for the evidence package that she mailed to the landlord on May 18, 2018. I find that the landlord was served with the tenant's materials in accordance with sections 88 and 89 of the *Act*.

The landlord stated that she sent a copy of her evidence to the tenant by email the day before the hearing. The tenant stated that she had not received the evidence of the landlord. I find that the tenant was not served with the landlord's materials in accordance with sections 88 and 89 of the *Act* and accordingly the landlord's evidence was not used in the making of this decision.

During the hearing the parties agreed to end the tenancy effective July 31, 2018. An order of possession will be granted to the landlord effective this date. The landlord also agreed to remove and replace the kitchen cabinets by July 15, 2018 and the parties will communicate by email to make arrangements for the work to be done. The tenant agreed that she owed rent for the months of May and June 2018 and agreed to pay the landlord \$2,600.00 on June 28, 2018.

Based on the above agreed upon terms, all parts of the tenant's application were addressed except for the tenant's monetary claim against the landlord for compensation for the loss of the use of the kitchen. Accordingly this is the portion of the tenant's application that was decided by me and is recorded in this decision.

Issues to be decided

Is the tenant entitled to compensation for the loss of the use of the kitchen?

Background and Evidence

The tenancy started on March 15, 2018. The monthly rent is \$1,300 due in advance on the first day of the month and does not include utilities. The tenant agreed that she owed rent for the months of May and June 2018, in the total amount of \$2,600.00.

On March 17, 2018, there was a fire in the kitchen and the stove and most of the cabinets were destroyed. The parties agreed that the landlord replaced the stove, two weeks after the fire. The tenant testified that the refrigerator was not affected by the fire. The tenant stated that the countertop on the right hand side of the stove was unusable as were 6 cabinets. The tenant agreed that the countertop on the left hand side of the stove was usable and that she had three cupboards available for use.

The landlord stated that she made several attempts to set up arrangements for the cabinets to be replaced, without success. The landlord stated that she used text messages to set up dates and times but the parties could not come to an agreement. During the hearing the landlord agreed to have the damaged cabinets removed and replaced by July 15, 2018. The parties will communicate by email to make arrangements. Both parties were provided with email addresses for each other.

The tenant has applied for compensation in the amount of \$2,210.00 for the inconvenience suffered from the lack of a fully functional kitchen. The tenant stated that she was forced to purchase cooked meals and did not have adequate countertop space or cabinets to store her kitchen utensils.

Analysis

Based on the sworn testimony of both parties, I accept that a fire took place on March 17, 2018 and that the kitchen suffered damage. The tenant was without a stove for two weeks and was forced to purchase cooked meals and is claiming \$30.00 per day for the cost of meals. The tenant also suffered some inconvenience due to the burnt cabinets.

Based on the above, I find that the tenant did suffer some inconvenience from damage to the kitchen caused by the fire. I also find that the tenant lost the use of the stove for two weeks but never lost the use of the refrigerator. Since the fire, the tenant also has limited countertop and cabinet space available for use.

In determining the amount by which the value of the tenancy has been reduced, I take into consideration the seriousness of the situation and the length of time over which the situation has existed. *Residential Tenancy Policy Guideline #16* states that an arbitrator may award “nominal damages” which are a minimal award. These damages may be awarded where there has been no significant loss, but they are an affirmation that there has been an infraction of a legal right.

Based on my findings regarding the inconvenience endured by the tenant I award her \$30.00 per day for the 14 days she was without a stove plus \$200.00 for the loss of use of some countertop and cabinet space. Since the tenant has proven a portion of her claim I award the tenant the recovery of the filing fee of \$100.00.

The tenant has established a total claim of \$720.00 which consists of \$420.00 for meals purchased, \$200.00 for the loss of use of a portion of the countertop and cabinets plus \$100.00 for the recovery of the filing fee. The tenant may make a one-time deduction of \$720.00 from rent that is due on July 01, 2018.

Pursuant to Section 63 of the *Residential Tenancy Act*, the Arbitrator may assist the parties settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During this hearing, the parties reached an agreement to settle a portion of their dispute under the following terms.

- The tenant agreed to move out by 1:00 pm on July 31, 2018. An order of possession will be granted to the landlord
- The landlord agreed to replace the damaged cabinets by July 15, 2018. The parties will communicate by email to make arrangements for the date and time for the work to be done.
- The tenant agreed to pay the landlord \$2,600.00 on June 28, 2018.
- Both parties acknowledged that they understood and agreed with the above terms of their agreement.

The tenant and the landlord have reached a settled agreement, as recorded above. This settlement agreement was reached in accordance with section 63 of the *Residential Tenancy Act*. The parties are bound by the terms of this agreement, as well as by the terms of their tenancy agreement and the Act. Should either party violate the terms of this settled agreement, the tenancy agreement or the Act, it is open to the other party to take steps under the Act to seek remedy.

Conclusion

The tenant will pay \$2,600.00 to the landlord on June 28, 2018.

The tenant may make a one-time deduction of \$720.00 off rent that is due on July 01, 2018.

The landlord will replace the kitchen cabinets by July 15, 2018.

I grant the landlord an order of possession effective by 1:00 pm on July 31, 2018.

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: June 20, 2018

Residential Tenancy Branch