



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing dealt with a tenant's application for a Monetary Order for damages or loss under the Act, regulations or tenancy agreement. Both parties appeared or were represented at the hearing and had the opportunity to make relevant submissions and to respond to the submissions of the other party pursuant to the Rules of Procedure.

The hearing was held over two dates and an Interim Decision was issued following the first hearing date. The Interim Decision should be read in conjunction with this decision. As provided in the Interim Decision, I ordered and authorized the parties to serve and submit evidence during the period of adjournment. At the start of the reconvened hearing I confirmed that the tenant served the documents so ordered and the landlords served their rebuttal evidence upon the tenant. Accordingly, I admitted and considered all of the evidence submitted by both parties.

Issue(s) to be Decided

Has the tenant established an entitlement to compensation for damages or loss under the Act, regulations or tenancy agreement from the landlords in the amounts claimed?

Background and Evidence

The tenant started paying rent for the rental unit starting in April 2016. The monthly rent was set at \$550.00 per month. A security deposit was not required or collected. The tenant moved out of the rental unit on February 28, 2017.

The rental unit was a one bedroom basement suite occupied by the tenant and her three minor children. The landlords and their children, or children in their care, resided in the unit above the rental unit.

Below, I have summarized the tenant's claims and the landlord's responses.

Registered mail costs -- \$21.00

The tenant sent registered mail to the landlords on two occasions to request rent receipts from the landlords.

I dismissed this claim summarily without hearing from the landlords as the tenant's decision to use registered mail to communicate with the landlords is her right but the cost to do so is not a recoverable cost under the Act.

Loss of laundry facilities -- \$240.00 + \$80.00

The tenant testified that during the tenancy she had access to the laundry facilities in the landlords' living unit two times per week. In January 2017 the landlord terminated her access. As a result she went to a laundromat for the last eight weeks of her tenancy. The tenant had her grandmother drive her to and from the laundromat and the tenant gave her grandmother \$10.00 per week, or \$80.00, for gas money. The tenant stated that she used coins in the laundry machines at the laundromat. The tenant estimated that she spent \$30.00 per week, or \$240.00, at the laundromat during this time but she could not get receipts. Nor, did the tenant have proof of payment to her grandmother for gas money.

The landlord described a very flexible laundry schedule whereby the tenant would message the landlord about the need to access the laundry machines and the landlords would try to accommodate her requests. In January 2017 the landlord told the tenant she was not home when the tenant asked to do laundry. The tenant's response was that she would "figure it out" which the landlord interpreted to mean the tenant would do make another plan for laundry that day. The tenant did not ask the landlords for access to do laundry machines again and the tenant had blocked the landlord from social media and her cell phone shortly afterward. The landlord did admit that from February 22, 2017 onwards the landlord terminated the tenant's access to the laundry machines due to allegations the tenant made against the landlords to the Ministry for Children and Family Development.

The tenant acknowledged that she did not ask to do laundry again and stated that it was because the landlord yelled at her on January 10, 2017 and she no longer felt comfortable going into the landlord's living space. The tenant stated that she was unaware she was barred from the laundry machines starting February 22, 2017.

Loss of internet -- \$30.00

The tenant testified that she was provided internet services by way of a Wi-Fi signal during her tenancy until the landlords terminated it in mid-January 2017 for approximately two weeks. The tenant stated that she was receiving multiple inappropriate messages from her aunt, the female landlord, so the tenant blocked her from her social media. In retaliation, the landlord terminated her access to Wi-Fi. Only after the tenant "unblocked" the landlord from her social media did the landlord provide the tenant with access to the Wi-Fi. The tenant stated that because she had been given an eviction notice she was looking for new living accommodation and she needed to search the internet. With the loss of the Wi-Fi she had to increase the data consumed on her cell phone.

The landlord denied terminating the tenant's Wi-Fi because she was blocked from social media. Rather, the landlord explained that she had to change the password on their Wi-Fi modem on January 16, 2017 because their son was inappropriately accessing the internet. The landlord pointed out that she could not communicate the new password to the tenant because the tenant had blocked her from social media and the tenant did not request the new password from them.

The tenant acknowledged she did not communicate with the landlord regarding the lack of Wi-Fi because she had been yelled at by the landlord on January 10, 2017. The tenant denied that she blocked the landlords from communicating with her via text message.

Unlawful eviction -- \$1100.00 + \$550.00 + \$1,100.00

The tenant submitted that there had been an oral agreement reached with the landlord that the tenancy would end on July 1, 2017 but on January 10, 2017 the landlords gave her a written letter to move out by March 1, 2017 instead of a proper notice to end tenancy and without cause for doing so. The tenant was of the position she should have received two months of notice but she only received one month of notice. Nor, did the landlords have a valid reason for ending the tenancy. The tenant was of the belief the landlords were retaliating against her for blocking the landlord from her social media.

The tenant explained that she proceeded to move out because the landlord had yelled at her and she no longer felt comfortable living at the property. The tenant succeeded in finding new living accommodation for March 1, 2017 so she left. After the tenancy ended the landlords re-rented the unit so the tenant should be further compensated.

The landlords submitted that there had been discussion concerning the tenant moving out on July 1, 2017 at one point in time but there were other discussions concerning other dates as well. As a result, there was no agreement that the tenancy would end July 1, 2017. The landlords submitted that the intention was to help the tenant until she was able to live more independently but after Christmas of 2016 the relationship with the tenant deteriorated significantly. The landlords were of the position the tenant already had plans to move to another city with her boyfriend. When the landlords approached the tenant about moving out by March 1, 2017 the tenant seemed agreeable given an incident involving the tenant and one of the landlords' children.

The landlords acknowledged that a number of months after the tenancy ended they permitted friend to move into the rental unit. The landlords did not end the tenancy for their own use or to accommodate their friend. Rather, the landlords' intention was that their niece would start to live more independently.

The landlords denied yelling at the tenant about being blocked from social media but did acknowledge there was heated conversation concerning the late payment of rent. The landlords pointed out that the tenant also yelled at them, called them idiots, and yelled at their children.

The landlords pointed out that the tenant sent her son to the landlord's unit to collect the mail and her text message included smiley faces so the tenant was not that scared of the landlords.

The tenant denied yelling at the landlords. The tenant acknowledged that she did move into her boyfriend's home but she had not told that to the landlords when they evicted her. Rather, she moved me with her boyfriend because she could not find housing elsewhere.

Courier service -- \$35.00

The tenant returned the keys to the rental unit by sending them to the landlords via courier. The tenant seeks to recover this cost from the landlords.

I dismissed this claim summarily as it is a tenant's obligation to return keys to the landlord at the end of the tenancy and the method of delivery was the choice of the tenant. As such, the cost associated with her decision is not recoverable from the landlord under the Act.

Analysis

Upon consideration of everything before me, it is clear to me that the animosity between the parties includes family discord; however, it is important to point out that the dispute resolution process provided by the Residential Tenancy Branch is designed to resolve tenancy disputes only. I provide the following findings and reasons as to the tenant's claims against the landlord as they pertain to their tenancy agreement, the Residential Tenancy Act, and the Residential Tenancy Regulations.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. Awards for compensation are provided in section 7 and 67 of the Act. Accordingly, an applicant must prove the following:

1. That the other party violated the Act, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss.

As the applicant, the tenant in this case has the burden of proof. The burden of proof is based on the balance of probabilities.

Having dismissed the tenant's claims to recover registered mail and courier costs summarily during the hearing, I proceed to consider the tenant's claims for compensation pertaining to loss of laundry, loss of internet, and unlawful eviction.

For reasons provided in the Interim Decision, I am satisfied the parties had a tenancy relationship, in addition to their familial relationship, and they entered into a tenancy agreement. Unfortunately, the parties did not execute a written tenancy agreement that would comply with section 13 of the Act. Nonetheless, the definition of "tenancy agreement" under section 1 of the Act provides that a tenancy agreement includes agreements entered into in writing, orally or by implied or express terms.

The only document executed by the landlord is a shelter Information document for Income Assistance purposes. The document indicates the monthly rent is \$550.00 and includes utilities. The document is silent with respect to specific utilities or other services or facilities to be included in rent or provided to the tenant. However, the parties were not in dispute that the tenant was provided access to the laundry facilities in the landlord's unit every week up until near the end of the tenancy and Wi-Fi access to the internet during the tenancy with the exception of two weeks. Therefore, I find that the tenant was entitled to access to laundry facilities on the property and Wi-Fi internet as part of her tenancy agreement and these services were included in her monthly rent.

Loss of laundry

The parties were in dispute as to whether the tenant was denied access to the laundry facilities starting in January 2017. In the tenant's written submission she indicates the days for doing laundry were to be on a "mutually agreeable day" but the tenant did not specify any particular day of the week in her written submission or during her testimony. I find the lack of specificity is consistent with the landlord's testimony during the hearing that the parties had a flexible arrangement whereby the tenant would ask to do laundry and the landlords would try to accommodate the tenant's request. Both parties referred to a particular date in January 2017 whereby the tenant asked to do laundry when the male landlord was home and the response she received was that the female landlord was in a meeting and could not accommodate the tenant's request at that time.

Based on the parties' consistent submissions that laundry access would be provided when it was mutually agreeable, I find the above described event is not a violation of their tenancy agreement. Also of consideration is that both parties provided further consistent submissions that after this event the tenant did not ask for laundry access again. I find the tenant's decision to not ask for laundry access again was her right but that her decision fails to demonstrate the tenant took reasonable action to mitigate losses. Therefore, I decline to award the tenant for loss of laundry access for the eight weeks she is seeking.

Considering the landlord admitted to terminating the tenant's right to access the laundry facilities starting February 22, 2017 and the landlord did not provide the required *Notice Terminating or Restricting Service or Facility* and an equivalent rent reduction I find the landlord violated section 27 of the Act. I accept the tenant's estimation that loss of laundry facilities would have an estimated devaluation of \$30.00 per week and I award the tenant that amount for loss of laundry due to termination by the landlords.

Loss of Wi-Fi (Internet)

It was undisputed that on or about January 16, 2017 the Wi-Fi password was changed by the landlord and the tenant was not be able to access the Wi-Fi internet without the new password.

The parties were in dispute as to the landlords' reason or motivation to change the password. Whatever the landlord's motive, I find the landlords had an obligation to provide the tenant with the new password so as to continue to provide her with the service she was entitled to receive under her tenancy agreement. The landlord claims she was unable to provide the tenant with the new password because the tenant had cut her off from social media and text messaging; however, I find that merely an excuse and a very weak one at that. Social media or text messaging are not the only methods of communication available to the landlord. I find it reasonable that the password could have been provided rather easily by way of a note or letter, or even orally. Having heard from the parties, I find the parties were more likely conducting themselves in a manner unbecoming for grown adults and I accept that the landlords' actions, or lack thereof, were retaliatory on part of the landlord. I find the tenant's request of \$30.00 to be within reason for loss of internet for two weeks and I award the tenant that amount, as requested.

Unlawful eviction

It is undisputed that the tenant was given a letter by the landlord dated January 10, 2017. The letter was provided in evidence. Below, I reproduce the relevant portions:

"This written notice is to confirm our conversation on January 10, 2017 that you agree to move out of our basement suit as of March-1-2017. We invited you & your children into our home as guest, and we all agree you are back on your feet and its best if you and your children move into more indepentant living."

[Reproduced as written, including spelling mistakes]

The parties were in dispute as to whether there was an earlier agreement reached on that date that the tenant would end on July 1, 2017. The content of the letter contradicts the tenant's position. In any event, where a tenant receives an improper notice to end tenancy the tenant's remedy is to not vacate the property or file an Application for Dispute Resolution to seek a resolution from an Arbitrator. The tenant did not avail herself of such remedies despite her assertions that she considered herself a tenant as

of April 2016 when she started paying rent. Rather, the tenant decided to move-out of the rental unit pursuant to the above described letter and now seeks compensation equivalent to five months of rent. I find the tenant's claim to be unreasonable and demonstrates a lack of mitigation. Therefore, I dismiss this portion of her claim against the landlords.

Given my findings and awards above, I order the landlords to pay the tenant the sum of \$60.00 for loss of laundry facilities and Wi-Fi internet. The tenant is provided a Monetary Order for this amount that she may serve and enforce upon the landlords.

Conclusion

The tenant is provided a Monetary Order in the sum of \$60.00. The balance of the tenant's claims 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: September 21, 2018

Residential Tenancy Branch