



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT

Introduction

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

- a monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67.

The landlord's lawyer ("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 represent the two individual "landlords" named in this application at this hearing. This hearing lasted approximately 45 minutes.

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 the landlords were duly served with the tenant's application and the tenant was duly served with the landlords' written evidence package.

Pursuant to section 64(3)(c) of the *Act*, I amend the tenant's application to remove the name of the landlord's law firm as a landlord-respondent. Both parties agreed to this amendment during the hearing and confirmed that the law firm and the landlord were just agents for the landlords named in this application.

Issue to be Decided

Is the tenant entitled to a monetary order for compensation for damage or loss under the *Act, Regulation* or tenancy agreement?

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 February 15, 2017 with the former landlord and ended on July 13, 2018 with the landlords. The landlords purchased the rental unit through foreclosure proceedings on November 8, 2017. Monthly rent in the amount of \$1,800.00 was payable on the first day of each month. A security deposit of \$900.00 was paid to the former landlord and was not transferred to the landlords. A written tenancy agreement was not signed by the tenant and the landlords.

The tenant seeks a monetary order of \$12,290.00. She provided a monetary order worksheet detailing her claims. The landlord did not receive this document but agreed to me reading the document aloud during the hearing. The tenant confirmed that the information I read aloud during the hearing was correct.

The tenant seeks \$80.00 for a Supreme Court of British Columbia ("SCBC") application fee and \$500.00 in costs that the tenant was ordered to pay to the landlords by a judge at a Supreme Court hearing. She also seeks \$500.00 for job loss and gas costs for having to move out in 2.5 hours, \$160.00 for seacan costs for a temporary place, \$3,500.00 for furniture left in the rental unit because she could not get it out, \$5,000.00 for job loss for missing work and having to move out of the City, \$2,000.00 for stress to her three children, \$400.00 for gas for school in and out of the City, and \$150.00 for the seacan drop off and pick up.

The tenant claimed that she was ordered to vacate the rental unit on July 13, 2018, pursuant to a hearing before a judge at the SCBC due to the landlords' foreclosure purchase of the rental unit. She explained that she incurred SCBC costs of having to file an application and had costs ordered against her because she was unsuccessful against the landlord at the SCBC hearing. She said that she was only given three hours to vacate. She said that she was advised by the Residential Tenancy Branch ("RTB") to file a monetary claim in order to recover her losses. She claimed that she did not have enough time to move out, so she incurred job loss, stress, seacan and gas costs due to

this rush. She maintained that she also left furniture behind and was unable to provide an inventory for this. The tenant did not provide any receipts, invoices, estimates, paystubs or other documentary evidence to support her claim, besides a receipt from the SCBC for her \$80.00 application fee.

The landlords dispute the tenant's claims. The landlords provided a written evidence package including a breakdown of the monetary costs they incurred for cleaning, disposal and utility charges from the tenancy, as well as the BCSC orders for those Court proceedings between the parties.

The landlord claimed that the tenant failed to provide proof, such as invoices, receipts, paystubs, affidavits, or witnesses for her claims. She stated that quantifying the tenant's stress required expert medical evidence, which the tenant failed to provide. She said that only garbage was left behind by the tenant at the rental unit, such that the landlords had to incur significant costs to clean it, and provided documentary proof including invoices for same. She explained that the tenant was unsuccessful at the SCBC hearing for the tenant's application on July 13, 2018, which required her to vacate and pay for her own application and court costs to the landlords. She maintained that the tenant was upset with the outcome of the SCBC proceedings and that she could not expect the landlords to reimburse her for being unsuccessful at the SCBC. She stated that the tenant was attempting to re-raise the same issues that were dealt with at the SCBC proceeding because she was unsuccessful there.

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.

On a balance of probabilities and for the reasons stated below, I dismiss the tenant's entire application without leave to reapply.

The tenant is not entitled to recover her SCBC costs of \$80.00 for the application fee and \$500.00 for court costs from the RTB, as the RTB has no jurisdiction over these claims or costs. I informed the tenant about this during the hearing.

I find that the tenant did not provide sufficient evidence to substantiate the remainder of her monetary claim for \$11,710.00 and failed to satisfy the four-part test. The tenant did not provide written documentation such as receipts, invoices, estimates, paystubs, or other such documents to support her claims. She did not provide medical records to show that she and her three children suffered from stress, sought treatment or incurred costs for medications or other items, as a result of her move from the rental unit. She did not provide employment documents such as paystubs, a letter from her employer confirming her employment or pay, or other such documentation to justify the job loss she claims she suffered. She did not provide invoices or receipts to show the seacan or gas costs that she incurred, when she could have obtained these documents, even if she paid in cash. She did not provide a breakdown of the furniture she left behind or the value of each item, or any estimates, invoices or receipts.

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: November 28, 2018

Residential Tenancy Branch