



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, DRI, LRE, OLC

Introduction

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

- a Monetary Order for damage or compensation under the *Act*, pursuant to section 67;
- an Order directing the landlord to comply with the *Act*, regulation or tenancy agreement, pursuant to section 62;
- disputation of a rent increase from the landlord, pursuant to section 42; and
- an Order that the landlord's right to enter is suspended or restricted, pursuant to section 70.

Both parties 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 tenant testified that the landlord was personally served the notice of dispute resolution package on November 12, 2018. The landlord confirmed receipt of the dispute resolution package on November 12, 2018. I find that the landlord was served with this package on November 12, 2018, in accordance with sections 89 and 90 of the *Act*.

The tenant testified that the owner of the subject rental property was personally served with the tenant's amendment package on either November 12th or November 13th, 2018. The owner of the subject rental property testified that he received the tenant's amendment package on November 13, 2018. The landlord testified that she was not in the city at the time the amendment package was served on the owner of the subject rental property and that she did not receive the amendment package until November 18, 2018. The landlord testified that she had an opportunity to review and respond to the

materials contained in the amendment package. I find that the landlord was served with the amendment package, in accordance with section 88 of the *Act*.

At the beginning of this hearing the tenant J.R. (the “tenant”) testified that she and tenant J.A. moved out of the subject rental property on October 30, 2018 she therefore withdrew the following claims:

- an Order directing the landlord to comply with the *Act*, regulation or tenancy agreement, pursuant to section 62;
- disputation of a rent increase from the landlord, pursuant to section 42; and
- an Order that the landlord’s right to enter is suspended or restricted, pursuant to section 70.

Issue(s) to be Decided

1. Are the tenants entitled to a Monetary Order for damage or compensation under the *Act*, pursuant to section 67 of the *Act*?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of both parties, not all details of their respective submissions and arguments are reproduced here. The relevant and important aspects of the tenants’ and landlord’s claims and my findings are set out below.

Both parties agreed to the following facts. This tenancy began on September 29, 2018 and ended on October 30, 2018. Monthly rent in the amount of \$750.00 was payable on the first day of each month. In addition to the monetary component of the rent, the tenant was to provide childcare for the landlord’s children. The schedule of care to be provided by the tenant to the landlord is disputed between the parties. A security deposit of \$550.00 was paid by the tenant to the landlord. The landlord returned the entire security deposit to the tenant.

The tenant testified that the landlord changed the terms of their agreement as to what hours the tenant would perform child care and threatened to end the tenancy. Both parties agree that the landlord provided the tenant with a letter on October 26, 2018 which stated that “This letter is to advise you that as of today October, 26th, 2018 your childcare services paired with your living arrangement that was produced in “Good Faith”, has now been terminated”... The letter goes on to state that the tenant

misrepresented herself when she agreed to pick the landlord's children up from daycare because the tenant is an 'N' driver and is not legally allowed to have two passengers. The tenant testified that she is an 'N' driver and is not legally allowed to have two passengers.

The tenant testified that she believed that she had no choice but to move out and did so on October 30, 2018. The tenant is seeking the following damages:

| Item | Amount |
|---|-------------------|
| Moving charge to the subject rental property | \$500.00 |
| Moving charge out of the subject rental property | \$500.00 |
| Storage fees for 30 days | \$200.00 |
| Two months' rent as penalty for improper eviction | \$1,500.00 |
| Total | \$2,700.00 |

The tenant testified that she did not hire a company to move her into or out of the subject rental property. The tenant's father testified that he moved the tenant in and out of the subject rental property and that the cost of gas and the cost of his time off from work should be considered.

The tenant's father testified that the tenant did not pay any storage fees as he has an arrangement with the owner of the storage facility whereby they exchange services rather than money.

The landlord testified that she did not evict the tenant and did not provide the tenant with an official Notice to End Tenancy. The landlord testified that their working relationship ended, and the tenant would have to pay full rent as the tenant could not provide the care to her children as originally agreed upon.

Analysis

I find that the tenant vacated the subject rental property of her own volition. While the tenant testified that she felt she did not have another option, she could have remained in the subject rental property and filed an application with the Residential Tenancy Branch. Since the tenant chose to move out of the subject rental property, the landlord is not responsible for the charges the tenant incurred moving in or out of the subject rental property.

Furthermore, Policy Guideline 16 states that it is up to the party who is claiming compensation to provide evidence to establish that compensation is due.

In order to determine whether compensation is due, the arbitrator may determine whether:

- a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;
- loss or damage has resulted from this non-compliance;
- the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and
- the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

I find that the tenant did not prove the amount of or value of the damage or loss suffered as the expenses claimed were either not actually incurred or not sufficiently proven.

Conclusion

The tenants' 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: December 04, 2018

Residential Tenancy Branch