



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP, MNDCT

Introduction

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

- an order requiring the landlord to complete emergency repairs to the rental unit, pursuant to section 33; and
- 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 agent ("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 landlord named in this application, as an agent at this hearing. This hearing lasted approximately 27 minutes.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package and the tenant confirmed receipt of the landlord's evidence package. In accordance with sections 88, 89 and 90 of the *Act*, I find that the landlord was duly served with the tenant's application and the tenant was duly served with the landlord's evidence package. The tenant confirmed that she received the landlord's evidence on March 18, 2019, and that she did not have any objection to me considering the landlord's evidence at the hearing or in my decision.

At the outset of the hearing, the tenant confirmed that she had vacated the rental unit so she did not require any emergency repairs to be done. This portion of her application is dismissed without leave to reapply.

During the hearing, both parties confirmed that they intended to complete a move-out condition inspection report sometime soon, hopefully this week. Accordingly, I notified both parties that the tenant's application to obtain a return of her security deposit of \$575.00, which was part of her monetary application, was dismissed with leave to reapply.

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 relevant and important aspects of the tenants' claims and my findings are set out below.

Both parties agreed to the following facts. This tenancy began on March 1, 2018 and ended on March 1, 2019. Monthly rent in the amount of \$1,150.00 was payable on the first day of each month. A security deposit of \$575.00 was paid by the tenant and the landlord continues to retain this deposit. A written tenancy agreement was signed by both parties.

The tenant seeks a monetary order of \$9,972.50. The landlord disputes the tenant's entire claim.

The tenant seeks a return of 25% of her rent from July 2018 to February 2019, which she said equalled \$2,012.50. She said that the landlord was notified of a rat problem in her rental unit at the end of June 2018 and did not do anything for pest control until the tenant moved out. She said that there were rats in the rental unit, the stove was a fire hazard, and she had no washing machine.

The tenant seeks \$1,000.00 for goods that she said were damaged by the rats in the rental unit, including a broom, her children's toys, plants, food, vacuum, and storage containers. She said that her plants were irreplaceable and her Christmas cactus was priceless. She said the rats chewed through everything, including her purse and food. She said that she did not know that she needed to provide proof of the cost of the items

and claimed that her purse was worth \$300.00, her vacuum was worth \$320.00, and four of her storage containers were worth \$50.00.

The tenant seeks \$4,860.00 for cleaning the feces, bedding and doing laundry, due to the rats in the rental unit. She said that she cleaned a minimum of one hour per day which was worth \$20.00 per hour, since July 2018. She said that this \$20.00 rate was based on telephone quotes that she received from cleaning companies.

The tenant seeks \$3,000.00 for “grief, unease, mental problem being ignored, health living” due to the “negligence by landlord” regarding the rats in the rental unit. She said that the landlord made a minimal effort and ignored her requests for pest control. She said that her and her children have an irrational fear of rats or anything black and that her children need counselling now. She estimated \$1,000.00 per “human surviving here.”

The landlord disputes the tenant’s entire monetary claim. She said that the landlord was first notified of a rat problem on June 29, 2018 and got pest control on July 4, 2018, as per the invoice paid for by the landlord. She explained that there was an exchange of emails demonstrating that pest control was an ongoing issue that could not be solved overnight, as identified by the professional pest control company hired by the landlord. She said that another pest control invoice was produced for August 4, 2018, and that the landlord replaced the tenant’s washer and dryer on August 16, 2018. She explained that her property management company took over the rental building in January 2019, and that pest control continued, whereas now the rental building is rodent-free but she was unable to get a report stating this information, in time for this hearing. She maintained that it was a priority for the landlord to ensure that the entire rental building, which is a four-plex, was free of rodents. She claimed that the tenant did not pay January 2019 rent, as per a previous RTB decision cancelling a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

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 landlord 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 application for \$9,972.50, without leave to reapply.

I find that the tenant was unable to justify the amounts being claimed. She did not produce receipts, invoices or estimates to show the cost of her damaged goods of \$1,000.00. She did not show how she arrived at a \$20.00 per hour figure for cleaning of \$4,860.00 total, when she is not a professional cleaner, and she did not show the estimates or quotes given to her by the cleaning companies for this amount. She did not demonstrate how she arrived at a \$1,000.00 "per human" figure, totaling \$3,000.00 for enduring "grief, unease and mental health" issues, when she did not produce any medical records for her or her children, including any potential medication costs. The tenant's number of \$2,012.50 for a 25% rent reimbursement does not add up correctly for 8 months, which the tenant agreed with during the hearing, claiming she only accounted for seven months. Further, I find that the landlord provided documentary evidence, including invoices and emails, to show that the landlord paid for ongoing professional pest control at the rental unit in response to the tenant's complaints.

Conclusion

The tenant's application to obtain a return of her security deposit of \$575.00 is dismissed with leave to reapply. The remainder of the tenant's 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: March 25, 2019

Residential Tenancy Branch