



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SUYSIDE VILLAS and
[tenant name supd to protect privacy]

DECISION

Dispute Codes FFT, MNDCT, OLC, PSF

Introduction

This hearing dealt with the tenant's application pursuant to the *Act* for:

- a monetary order for money owed or compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement, pursuant to section 67;
- an order compelling the landlord to provide services or facilities as required by law pursuant to section 65;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- authorization to recover the filing fee for its application from the landlord, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The parties acknowledged receipt of evidence submitted by the other. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

Issues to Decide

Is the tenant entitled to a monetary order as compensation for the costs of emergency repairs?

Is the tenant entitled to an order compelling the landlord to comply with the *Act*, regulation or tenancy agreement?

Is the tenant entitled to an order to have the landlord provide services or facilities as required by law?

Is the tenant entitled to recover the filing fee for this application from the landlord?

Background, Evidence

The tenant gave the following testimony. The tenant wasn't sure of the exact date but believes her tenancy began sometime in 2002. The tenant testified that her currently monthly rent is \$518.00. The tenant testified that as part of her tenancy agreement, tenants are allowed to use their own washers and dryers for in suite laundry. The tenant testified that she has had several issues with her washing machine overflowing and causing water to spill all over the laundry room. The tenant originally thought it might have been an issue with her washing machine but after two service calls to two separate appliance companies, no issue with the machine was found. The tenant decided to contact the manager and advise that she had an ongoing issue. The tenant testified that the resident manager refused to come and that she called a plumbing company the following day. The tenant testified that the plumber spent 3 hours snaking out the drain and that the issue was resolved. The tenant is seeking the recovery of the cost for the two calls to the appliance companies, the plumber and the recovery of the filing fee for a total amount of \$745.15.

The landlords gave the following testimony. JM testified that the appliances are the tenants' responsibility as they purchase and use their own machines in the unit and that the tenancy agreement reflects that. KM testified that he did not refuse to assist the tenant, but rather told her it wasn't an emergency and that he had experienced a long day dealing with a major water leak in the building and that he was done for that day. KM testified that he advised the tenant he would get to it at another time as it wasn't urgent. DC testified that the tenant was impatient and took it upon herself to conduct the repair without first letting the resident manager deal with it. KM testified that he was advised of the tenants issue on a Friday, and that when he approached the tenant on the Monday to arrange to address the laundry issue, he was advised by the tenant that she has already had a plumber repair it.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. **In order to claim for damage or loss under the Act, the party claiming the damage or loss bears the burden of proof.** The claimant must provide **sufficient evidence of the following four factors**; the existence of the damage/loss, that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party, the applicant must also show that

they followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed, and that if that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I address the tenants claim and my findings as follows.

I find that the tenant was impatient and did not provide the landlord a reasonable amount of time to address the issue. KM was dealing with a major water leak in the building that affected many. I accept that the tenant was inconvenienced as she was unable to use the washing machine for several days, however, she could have used the coin operated laundry that the building has until her plumbing issue was resolved. I find that the tenant has not provided sufficient evidence that the landlord was in contravention of the Act, regulation or tenancy agreement. In addition, I find that the tenant did not mitigate the loss by giving the landlord an opportunity to address the issue. Based on the above, I hereby dismiss the tenants claim for the plumbing bill of \$460.95.

The tenant was seeking the recovery of appliance repair bills of \$94.45 from 2017 and 89.25 from 2013. I find that these repairs are dated, and that the tenant failed to provide sufficient evidence that she mitigated the loss or to show a link that the landlord acted in contravention of the Act, regulation or the tenancy agreement. In addition, the tenancy agreement clearly shows that as the tenants provide their own washer and dryer, they are responsible for the maintenance and repairs of those appliances. Based on all of the above, I dismiss the tenants claim for these costs.

The tenant was given three opportunities to present her claim. She was silent in regards to having the landlord provide services or facilities as required by law or an order to have the landlord comply with the Act. In addition, she has not provided sufficient documentary evidence for me to make a finding in that regard, accordingly; I dismiss this portion of her application.

The tenant has not been successful in any portion of her application and is not entitled to the recovery of the filing fee.

Conclusion

The tenants' application is dismissed in its entirety 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: April 11, 2019

Residential Tenancy Branch