



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT FFT

Introduction

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

- A monetary award for damages or loss pursuant to section 67; and
- Authorization to recover the filing fee 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, and to call witnesses. The two named landlords were accompanied by their adult children.

As both parties were present service of documents was confirmed. The parties each testified that they are in receipt of the other's materials. Based on the testimonies I find that the parties have each been served with the respective materials in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Are the tenants entitled to a monetary award as claimed?

Are the tenants entitled to recover the filing fee from the landlords?

Background and Evidence

While I have turned my mind to all the documentary evidence, including photographs, diagrams, miscellaneous letters and e-mails, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the **tenants'** claim and my findings around each are set out below.

This tenancy began on September 2, 2016 and ended on February 1, 2017. The monthly rent was \$1,400.00 payable on the first of each month. The parties agreed to a discounted rate of \$1,200.00 for the first three months. The rental unit is a basement suite in a detached home.

The tenant gave lengthy testimony about their complaints regarding this tenancy. The tenant testified that they were unable to use all of the facilities during the initial months of the tenancy. The tenant said that the rental unit was in a state of disrepair and that the landlords failed to perform repairs to their satisfaction. The tenant submitted into evidence multiple photographs they took during the tenancy. The tenant gave testimony about the effect the condition of the suite on their family and their concerns about safety. The tenant testified that the relationship with the landlords and their occupancy caused considerable stress and erosion of their right to quiet enjoyment.

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 prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I find that the tenants have not established their claim on a balance of probabilities. Their lengthy oral submissions and documentary evidence consists primarily of subjective complaints, suppositions, conjecture and irrelevant details. The documentary evidence submitted by the tenants includes photographs of various areas of the suite. I find that the photographs do not show major deficiencies but minor blemishes if anything. I find that the photographs are insufficient to show that the rental suite was in so substandard a condition that the landlord was in violation of the *Act* or reasonable standards. I find the tenant's testimony regarding such issues as heating systems, plumbing and fire alarms to be insufficient to show on a balance of probabilities that the landlord has breached the *Act*, regulations or tenancy agreement. The tenant's submissions include noise complaints, the attitude of the landlord and rude interactions. While I accept that the tenants disliked this tenancy and had multiple complaints about their living condition I find that it does not establish that there is a basis for a monetary claim.

I find that the tenants have not established either individually or cumulatively that there has been any breach by the landlords that would give rise to a monetary award. Consequently, I dismiss the tenants' application in its entirety without leave to reapply.

Conclusion

The tenants' application is wholly 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: April 30, 2019

Residential Tenancy Branch