



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNDCT, OLC, FFT

Introduction

This teleconference hearing was scheduled in response to an application by the Tenants under the *Residential Tenancy Act* (the “Act”) to cancel a 10 Day Notice to End Tenancy for Unpaid Rent (the “10 Day Notice”), for monetary compensation, for an Order for the Landlord to comply with the *Act*, *Residential Tenancy Regulation* and/or tenancy agreement, and for the recovery of the filing fee paid for the Application for Dispute Resolution.

One of the Tenants was present for the teleconference hearing while no one called in for the Landlord during the approximately 14 minutes that the phone line was monitored. The Tenant was affirmed to be truthful in his testimony and confirmed that he served the Landlord with the Notice of Dispute Resolution Proceeding package and a copy of his evidence by registered mail. The Landlord submitted evidence which the Tenant stated he was not served with a copy of. I accept the affirmed testimony of the Tenant and therefore find that the Landlord was duly served in accordance with Sections 88 and 89 of the *Act*. As the Landlord submitted evidence to the Residential Tenancy Branch, I find this to support the finding that the Landlord was served with the Notice of Dispute Resolution Proceeding documents.

As the Landlord did not attend the hearing, this decision will be based on the relevant testimony and evidence of the Tenants only.

Preliminary Matters

The Tenant testified that they moved out of the rental unit on June 30, 2019. Therefore, I find that a dispute over a 10 Day Notice and a claim for the Landlord to comply are no longer relevant given that the tenancy has ended. Therefore, pursuant to Section

64(3)(c) of the *Act*, the application was amended to remove these claims. This decision will address the Tenants' monetary claim as well as their application for the return of the filing fee.

Issues to be Decided

Are the Tenants entitled to monetary compensation?

Should the Tenants be awarded the recovery of the filing fee paid for the Application for Dispute Resolution?

Background and Evidence

The Tenant provided undisputed testimony on the tenancy. The tenancy began in mid-January 2018 and ended on June 30, 2019. The Tenant stated that by the end of the tenancy the Landlord was requesting \$890.00 in monthly rent, although he stated his position that this was illegally increased from \$850.00. The Tenant stated that they paid a security deposit of \$425.00 at the start of the tenancy.

The Tenant is seeking \$1,040.00 in laundromat costs due to the washing machine breaking during the tenancy. The Tenant stated that they notified the Landlord by phone that the washing machine had broken, and the Landlord came to have a look. However, the Tenant stated that since the machine was bolted to the wall, the work would require a professional to install a new washing machine. The Tenant stated that the Landlord thought the Tenants would complete this work and never followed through on replacing the washing machine. The Tenant stated that as a result of the washing machine not being fixed or replaced, they had to use the laundromat for a period of one year at a cost of \$20.00 per week.

The Tenant referenced a handwritten receipt submitted into evidence that states one year of laundromat usage at \$24.00 per week for a total of \$1,248.00. The Tenant stated that this was an error and he was seeking a total of \$1,040.00 for the laundromat charges as it cost them \$20.00 per week.

The Tenant testified that they are also seeking \$120.00 which is the equivalent of \$40.00 paid towards an illegal rent increase for a period of three months. The Tenant stated that rent was \$850.00 when the Landlord provided verbal notice that the rent would be increasing to \$890.00 beginning in March 2019. The Tenant stated that they paid the amount of \$890.00 for March, April and May 2019. He stated that not only was

the rent increase provided verbally, but that only 1.5 months notice was provided. The Tenant stated that as the rent increase was not issued legally, they are seeking reimbursement of the amount overpaid.

Analysis

Section 7(1) of the *Act* states the following regarding claims for compensation:

7 (1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

Residential Tenancy Policy Guideline 16: Compensation for Damage or Loss provides further clarification to determining if compensation is owed through a four-part test as follows:

- 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.

While the Tenant testified that the Landlord did not repair the washing machine, I fail to find sufficient evidence regarding the washing machine issue as well as the compensation claimed. The Tenant submitted a handwritten and undated receipt regarding laundromat usage, which he stated showed the incorrect amount.

The Tenant did not submit any evidence that would establish the issue with the washing machine such as photos, communication with the Landlord to confirm that the Landlord was notified of the need for repairs/replacement or other such evidence. As such, I do not find that the Tenant met any of the requirements of the four-part test as outlined above and I am not satisfied that the Tenant has established that they are entitled to compensation. I decline to award compensation for laundromat charges.

Regarding the claim for reimbursement due to an illegal rent increase, as stated in Section 41 of the *Act*, rent must not be increased except in accordance with the *Act*. The Tenant stated that rent was \$850.00 and was verbally increased to \$890.00. While a verbal rent increase would be a breach of the *Act*, I do not have sufficient evidence

before me to establish that the rent was verbally increased and that the Tenants paid an additional amount of \$40.00 a month for a period of three months. In the absence of evidence such as proof of rent payment amounts, the tenancy agreement that would confirm the initial rent amount or other such evidence, I am not satisfied that the Tenants overpaid rent due to an illegal rent increase. Therefore, I decline to award compensation for an illegal rent increase.

As stated by rule 6.6 of the *Residential Tenancy Branch Rules of Procedure*, the onus to prove a claim, on a balance of probabilities, is on the party making the claim. In this matter I do not find that the Tenant met the burden of proof to establish their monetary claims. As the Tenants were not successful, I decline to award the recovery of the filing fee paid for the application. The Tenants' application is dismissed, without leave to reapply.

Conclusion

The Application for Dispute Resolution 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: July 22, 2019

Residential Tenancy Branch