



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **FFT MNDCT RR**

Introduction

This hearing dealt with the tenants' application pursuant to the *Manufactured Home Park Tenancy Act* (the "Act") for:

- Authorization to recover the filing fees from the landlord pursuant to section 65;
- A monetary order for damages or compensation pursuant to section 60; and
- An order for a rent reduction for repairs, services or facilities agreed upon but not provided pursuant to section 58.

Both of the tenants attended the hearing, represented by the tenant, WY ("tenant") as did the landlord, represented by property manager, CH ("landlord"). The parties acknowledged the exchange of evidence and stated there were no concerns with timely service of documents and were prepared to deal with the matter of the tenant's application.

The hearing process was explained and parties were given an opportunity to ask any questions about the process. The parties were given a full opportunity to present affirmed testimony, make submissions, and to question the other party on the relevant evidence provided in this hearing. While I have turned my mind to all the documentary evidence and testimony, not all details of the parties' respective submissions and/or arguments are reproduced here. The principal aspects of each of the parties' respective positions have been recorded and will be addressed in this decision.

Issue(s) to be Decided

Are the tenants entitled to:

- Authorization to recover the filing fees from the landlord pursuant to section 65;
- A monetary order for damages or compensation pursuant to section 60; and
- An order for a rent reduction for repairs, services or facilities agreed upon but not provided pursuant to section 58.

Preliminary Issue – application amended pursuant to section 64(3)(c)

(3) Subject to the rules of procedure established under section 9 (3) [*director's powers and duties*], the director may

- (a) deal with any procedural issue that arises,
- (b) make interim or temporary orders, and
- (c) amend an application for dispute resolution or permit an application for dispute resolution to be amended.

In the tenants' application for dispute resolution, the tenant misnamed the landlord. I confirmed with the landlord their proper legal name which is reflected on the cover page of this decision. In accordance with section 64(3)(c) the landlord's name on the application and this decision were amended accordingly.

Background and Evidence

The parties agree on the following facts. The tenancy began on September 2, 2015. The tenants rent a pad on the landlord's manufactured home park for \$480.00 per month.

The tenant provided the following testimony. He received a water bill from the city in early January indicating he had a water leak and noticed his water bill was higher than normal. A 'normal' water bill is approximately \$60.00 per month. He never experienced water pressure issues or saw visible signs of a water leak. When he ripped into the siding, he discovered a leak where the pipes come into the house.

The tenant acknowledges he received a water bill from the city for the period of November 1 – November 30, 2018 indicating water consumption amounting to \$257.58 with the notation "*You have a leak, water is running thru the night (Nov 2018)*" and a water bill for the period from December 1 – December 31, 2018 indicating water consumption of \$609.12 which had the same notation, "*You have a leak, water is running thru the night (Nov 2018)*". The tenant testified they recently had a birth in the family and didn't open their mail, so he didn't know about the water leak.

On Friday, January 4th, he called the landlord about the leak and was advised by them to wait a day for their maintenance person to look at it. The landlord told him that the curbside shutoff valve to their portion of the manufactured home park was broken. The city advised the tenants that shutting off the water supply to the entire park would be at the landlord's expense and would require a minimum of two days' notice to the residents at the manufactured home park that their water would be shut off. The tenants testified there is an individual shutoff valve to their own site, however it is located beneath their trailer and is inaccessible. In evidence is a social media post where the tenant BM writes, "*...our shut off valve is under our trailer under all the water and our trailer is so low to the ground no one can get under there*". BM's mother posted the following comment, "*There is a shut off valve under the trailer but it's in the middle of the trailer and no one could fit under there to shut it off*". No photographs of the leak, the manufactured home, or the curbside shutoff valve were presented as evidence.

The tenant testified that they were able to fix the leak themselves on January 5th without the water being shut off by the city after the tenant's family went under the home to repair it while the leak was in progress.

The landlord provided the following testimony. They received a maintenance request regarding a water leak at a different unit in the park and discovered a leak in the tenant's unit on January 4th. They notified the tenants that the leak was close to the floor of their manufactured home and was therefore their responsibility to fix it. That same day, the tenants posted messages online seeking a plumber which was provided as evidence. The tenant started calling the landlord during the weekend when the office was closed.

The landlord considers the tenants negligent in not taking action when the city notified them of the water leak on their November water bill. The landlord states that the tenants would have continued to leak water if their maintenance man had not informed them of the leak on January 4th when responding to another tenant's water leak complaint.

Analysis

Rule 6.6 of the Residential Tenancy Rules of Procedure indicate the onus to prove their case is on the person making the claim. The standard of proof is on a balance of probabilities. If the applicant is successful in proving it is more likely than not the facts occurred as claimed, the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the Act, regulation or tenancy agreement;
3. The value of the damage or loss; and
4. Steps taken, if any, to mitigate the damage or loss.

In the case before me, the tenant must show that the landlord violated the Act in some way, causing him to suffer damages for which he is entitled to compensation.

In this case, the tenant acknowledges the following points. First, when the the manufactured home was installed in the manufactured home park, it was installed with it's shut-off valve located in an inaccessible area underneath the home. Although they had the opportunity to install an easily accessible valve they could operate in case of emergency, they did not do so. I find the tenants have failed to show it was the responsibility of the landlord to ensure the tenants could shut off the water supply to their manufactured home.

Second, the tenant acknowledges the notation on their November water bill that advises them they had a water leak. Their water bill was extraordinarily high, yet they didn't respond to the city's warning. The following month, the water bill was even higher and

once again, the tenants did not investigate the cause or take any action. The tenants' reasoning of ignoring the water bill because of a new birth does not excuse the tenants of their responsibility to find out why their bill is high and try to keep their bill down. Although the tenant's testimony that he discovered the leak after reviewing his January water bill is plausible, I find the landlord's testimony that the tenant took action after being notified of the leak by the landlord's maintenance person is more compelling. In this case, the tenants have failed to show they took any steps to mitigate the damage for which they seek compensation.

Section 7 of the Act states 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. In this case, the tenants have not satisfied me the landlord is failing to comply with the Act and I therefore I must dismiss their claim for a rent reduction and for compensation.

As the tenants' claim was not successful, I decline to award the filing fee in accordance with section 65 of the Act.

Conclusion

The tenants' claim 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 *Manufactured Home Park Tenancy Act*.

Dated: August 01, 2019

Residential Tenancy Branch