



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT FFT

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement and to recover the filing fee from the landlords for the cost of the application.

The tenant and both landlords attended the hearing and each gave affirmed testimony. The parties were given the opportunity to question each other and give submissions. No issues with respect to service or delivery of documents or evidence were raised, and all evidence provided has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Has the tenant established a monetary claim as against the landlords for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for loss of perishable food and use of the rental unit?

Background and Evidence

The tenant testified that this tenancy began on March 1, 2018, ended on June 23, 2018 and then a new tenancy was created effective in August, 2018, which ultimately ended on June 23, 2019. Rent in the amount of \$2,800.00 per month was payable on the 1st day of each month and there are no rental arrears. At the outset of the tenancy the landlords collected a security deposit from the tenant in the amount of \$1,500.00, all of which has been returned to the tenant.

The tenant further testified that due to a bad wind storm that knocked over trees, there was no power to the rental unit over Christmas. The power outage lasted from December 20 to 26, and the tenant stayed for the first day, but luckily stayed at someone's house commencing December 21. The tenant went to the rental home every day to see if power was restored, which didn't happen until early morning on December 26, 2018.

The tenant contacted BC Hydro and was told that the owner could submit receipts to BC Hydro for loss of food, but the tenant could not because she is not the owner. The tenant sent the receipt to the landlord for food, and is not sure if the landlord ever submitted it to BC Hydro.

The tenant lost all perishable food that was in the fridge, and a replacement receipt for \$344.87 has been provided for this hearing, but it does not contain a date.

The tenant also claims compensation in the amount of \$558.00 for loss of use of the rental unit during the power outage. There was no heat and no lights.

The landlords refused to take responsibility when the tenant asked for compensation. Several email strings have been provided as evidence for this hearing.

The first landlord (DH) testified that the first he heard of the power outage was on December 24, 2018 when he received an email and a text message from the tenant. The landlord immediately contacted the power company and was told they were already on it but had many outages to deal with. The landlord called the Residential Tenancy Branch and told them that the tenant wanted compensation and threatened to withhold rent. The landlord was told that the power outage was out of the landlords' control so the landlords didn't have to provide compensation to the tenant.

The second landlord (AH) testified that the tenant didn't pay for hydro; that was included in the rent. The gas was still running and the tenant still could have cooked and used the oven.

Analysis

I have reviewed all of the evidentiary material of the tenant, and none has been provided by the landlords.

The first landlord testified that he didn't know of a power outage until December 24, 2018. The tenant has provided several emails, some of which are not dated.

Therefore, I am not satisfied that the tenant has established that the landlords were aware of it prior to that date. However, where a tenancy is devalued, the tenant may be entitled to some compensation.

Where a party makes a monetary claim for damage or loss, the onus is on the claiming party to satisfy the 4-part test:

1. that the damage or loss exists;
2. that the damage or loss exists as a result of the other party's failure to comply with the *Residential Tenancy Act* or the tenancy agreement;
3. the amount of such damage or loss; and
4. what efforts the claiming party made to mitigate any damage or loss suffered.

The landlords' position is that the loss of power was an "act of God," which is not within the control of the landlords. The tenant does not deny that the outage was a result of a bad windstorm that knocked down trees.

The parties agree that hydro is included in the rent, but no one has provided a copy of the tenancy agreement for this hearing. In the absence of any evidence of what exactly that term states, I cannot be satisfied that the tenant has established that the landlords have failed to comply with the *Residential Tenancy Act* or the tenancy agreement.

The tenant's application is dismissed. Since the tenant has not been successful, the tenant is not entitled to recovery of the filing fee.

Conclusion

For the reasons set out above, the tenant's application is hereby dismissed.

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: October 15, 2019

Residential Tenancy Branch