



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CONCERT REALTY SERVICES LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **FFL MNDL**

Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* (“*Regulation*”) or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

This hearing is a continuation of a hearing which was adjourned on September 30, 2019 to allow the tenant to request assistance.

GM attended as agent for the landlord (“the landlord”). The tenant attended. The hearing process was explained, and an opportunity was given to ask questions about the hearing process. Each party had the opportunity to call witnesses and present affirmed testimony and written evidence. No issues of service were raised. I find the landlord served the tenant in accordance with section 89 of the *Act*.

At the outset, the tenant stated that he had obtained “legal advice” although he did not have an advocate at the hearing. The tenant stated he wanted to resume the hearing. The hearing accordingly continued.

Issue(s) to be Decided

Is the landlord entitled to the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act, Residential Tenancy Regulation ("Regulation")* or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

Background and Evidence

The landlord testified that the tenancy began on March 25, 2014 on a renewable fixed term of 1-year. The tenancy was last renewed in March 2018 for a 1-year term. Rent is \$1,278.00 monthly payable on the first of the month. A security deposit was paid at the beginning of the tenancy in an unspecified amount.

The tenant experienced medical difficulties as a result of which a 911 call was made and first responders attended at the unit. When the tenant failed to respond to the first responders, they broke down the tenant's door and evacuated him to the hospital.

The landlord requested reimbursement of the replacement cost of the door in the amount of \$1,443.75, a copy of the receipt dated April 16, 2019 being submitted as evidence. The landlord did not claim costs of securing the unit after the tenant was taken to the hospital or subsequent labour costs in installing the replacement door. The landlord submitted photographs of the tenant being removed on a stretcher from the unit and the damaged door.

The tenant questioned whether it was necessary to destroy his unit's door in order to provide medical services. The tenant also questioned the "real" cost of the door and said it was not likely that the landlord obtained a replacement door so quickly.

The landlord testified that the door was "ten to fifteen years old" and the lock "dated from the 60's". The landlord provided substantial documentary evidence in support of the determination that the tenant's condition and situation was assessed as an emergency, the tenant's life was believed to be in jeopardy, the tenant was heard calling for assistance, and urgent access by any means was determined to be necessary.

The landlord requested full reimbursement for the replacement cost of the door. The landlord stated the door was in good condition and was properly functioning.

Analysis

While I have turned my mind to the documentary evidence and the testimony of the landlord, not all details of the parties' submissions and arguments are reproduced here. The relevant and important aspects of the claims and my findings are set out below. In this case, the landlord has claimed for compensation due to damages/loss.

The purpose of compensation is to put the claimant who suffered the damage or loss in the same position as if the damage or loss had not occurred. Therefore, the claimant bears the burden of proof to provide sufficient evidence to establish **all** of the following four points:

1. The existence of the damage or loss;
2. The damage or loss resulted directly from a violation – by the other party – of the *Act*, regulations, or tenancy agreement;
3. The actual monetary amount or value of the damage or loss; and
4. The claimant has done what is reasonable to mitigate or minimize the amount of the loss or damage claimed, pursuant to section 7(2) of the *Act*.

In this case, the landlord bears the burden of proof.

I find the landlord has established that the tenant's door was broken down by first responders in response to the tenant's call for assistance and the reasonable steps taken by neighbours to obtain emergency medical support for the tenant. I therefore find the tenant is responsible for the damage to the door.

The key issue in this case is the monetary award to be made for the door. I accept the landlord's evidence supported by a receipt that the replacement cost of the door was \$1,443.75.

Policy Guideline # 40 – Useful Life of Building Elements is a general guide for determining the useful life of building elements for considering applications for determining damages. Useful life is the expected lifetime, or the acceptable period of use, of an item under normal circumstances.

The Guideline provides that an arbitrator may consider the useful life of a building element and the age of the item. It states that landlords should provide evidence showing the age of the item at the time of replacement and the cost of the replacement building item.

In this case, the landlord claimed that the useful life of the door was substantially different from the useful life set out in the Guideline; the landlord rejected the applicability of the Guideline. However, the landlord submitted no documentary evidence in support of the assertion that the damaged door was anything other than an aging exterior door for a unit with a digital card reader dating from the 1960's.

I do not accept the landlord's testimony that a monetary award is appropriate for the full replacement amount for a door in this circumstance.

I therefore accept the Policy Guideline in the estimate of the useful life of a door being 20 years and that this Guideline applies to this case.

I except the long-range estimate of the landlord that the door was 15 years old. I find that the door had a remaining useful life of five years, I award the landlord 25% of the amount claimed, being \$360.94.

I therefore award the landlord a monetary order in the amount of \$360.94.

Conclusion

I issue a Monetary Order in the landlord's favour against the tenant in the amount of \$360.94. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: December 06, 2019

Residential Tenancy Branch