



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding TOWN PARK APARTMENTS LTD
and [tenant name suppressed to protect privacy]

REVIEW HEARING DECISION

Dispute Codes MNDCT, OLC, RP

Introduction

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

- a Monetary Order for damage or compensation under the *Act*, pursuant to section 67;
- an Order directing the landlord to comply with the *Act*, regulation or tenancy agreement, pursuant to section 62; and
- an Order for regular repairs, pursuant to section 32.

The tenant, the tenant's advocate, landlord C.L. and the landlord's caretaker attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

Preliminary Issue- Amendment

Both parties agreed in the hearing that the address of the subject rental property on the tenant's application for dispute resolution contained an error. Pursuant to section 64 of the *Act*, I amend the tenant's application for dispute resolution to state the correct address of the subject rental property.

Both parties agreed in the hearing that the tenant used the shortened first name of landlord C.L. on her application for dispute resolution. Pursuant to section 64 of the *Act*, I amend the tenant's application to state the full first name of landlord C.L.

Preliminary Issue- Previous Hearing and Service of Documents

This hearing originally convened on October 18, 2019 (the “original hearing”). A decision dated October 20, 2019 (the “original hearing”) was issued by a different Arbitrator after the original hearing. Landlord C.L. and the tenant’s advocate attended the original hearing. In the original decision the tenant’s advocate withdrew the tenant’s application for regular repairs and for the landlord to comply with the *Act*. The tenant’s monetary claim was dismissed.

The tenant applied for a review of the original decision, alleging she was unable to attend. A new review hearing was granted by a different Arbitrator, pursuant to a review consideration decision dated November 11, 2019 (the “review decision”). As per the review decision, the tenant was required to serve the landlords with a copy of the review decision and the notice of review hearing.

Landlord C.L. confirmed receipt of the above review documents from the tenant. In accordance with section 89 and 90 of the *Act*, I find that the landlords were duly served with the required review documents from the tenant.

Issue to be Decided

1. Is the tenant entitled to a Monetary Order for damage or compensation under the *Act*, pursuant to section 67?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of both parties, not all details of their respective submissions and arguments are reproduced here. The relevant and important aspects of the tenant’s and landlord’s claims and my findings are set out below.

Both parties agreed to the following facts. This tenancy began before the landlord’s company took over. Monthly rent in the amount of \$450.00 is payable on the first day of each month. A security deposit of \$225.00 was paid by the tenant to the landlord.

The tenant testified that the subject rental property was infested with rats and that the rats damaged her personal property. The tenant is seeking monetary compensation for

the cost of rat traps and the replacement value of her personal property damaged by the rats.

Both parties agree on the following facts. The tenant first notified the landlord in writing of the rat problem in a letter dated July 17, 2019 which was entered into evidence. An extermination company attended at the subject rental property on August 5, 2019 and treated the subject rental property. The extermination company attended at the subject rental property for a subsequent treatment on August 24, 2019. The rodent problem was resolved after this treatment.

Landlord C.L. testified that he called the exterminator company as soon as he was notified of the rat problem but that the subject rental property is in a remote city that does not have a permanently based extermination company. Landlord C.L. testified that the earliest the extermination company could attend was August 5, 2019. Landlord C.L. testified that the report he received from the extermination company noted that the subject rental property was in an unhygienic condition with garbage and food located throughout the subject rental property and that if the subject rental property was not cleaned the rats would likely return.

The tenant is making the following monetary claims:

Item	Amount
Mattress and box spring	\$549.99
Smart kill trap	\$79.99
Rat trap	\$19.96
Glue traps	\$19.88
Spoilt groceries	\$200.00
Clothing and cultural regalia	\$1,600.00
Insecticide	\$19.03
Total	\$2,488.85

No receipts, invoices or estimates were entered into evidence for the above items.

Analysis

Policy Guideline 16 states that it is up to the party who is claiming compensation to provide evidence to establish that compensation is due. To be successful in a monetary claim, the tenant must establish all four of the following points:

1. a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;
2. loss or damage has resulted from this non-compliance;
3. the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and
4. the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

Failure to prove one of the above points means the tenant's claim fails.

The tenant did not enter into evidence receipts, invoices or estimates proving the value of the loss or damage she is alleging. The tenant has failed to prove point 3 of the above test. I therefore dismiss the tenant's monetary claim without leave to reapply. As I have determined that the tenant failed to meet point 3, I decline to consider the other points of the test.

Conclusion

The tenant's application 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: January 08, 2020

Residential Tenancy Branch