



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, RPP, FFT

Introduction

This hearing was convened as the result of the tenant's application for dispute resolution under the Residential Tenancy Act (Act) for:

- a monetary order for money owed or compensation for damage or loss under the Act, the tenancy agreement or the regulation;
- an order requiring the landlord to return the tenant's personal property pursuant to section 65; and
- recovery of the filing fee paid for this application.

The tenant and the landlord attended, the hearing process was explained, and they were given an opportunity to ask questions about the hearing process.

At the outset of the hearing, the parties confirmed receipt of the other's evidence in advance of the hearing.

Thereafter the participants were provided the opportunity to present their evidence orally and to refer to relevant evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all relevant evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Whether the tenant is entitled to a monetary order for money owed or compensation for damage or loss under the Act, the tenancy agreement or the regulation.

Whether the tenant is entitled to an order requiring the landlord to return the tenant's personal property.

Whether the tenant is entitled to recovery of his filing fee paid for this application.

Background and Evidence

The evidence was that this tenancy began on September 1, 2017 and ended on August 31, 2018.

The tenant's monetary claim is as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. House cleaning	\$577.50
2. April hydro	\$784.80
3. February hydro	\$849.48
4. Dec hydro	\$652.72
5. Enforcement of monetary order, filing fee	\$21.00
6. Ink and paper supplies	\$73.31
TOTAL	\$2,958.81

To support his application, the tenant provided the following:

Return of personal property-

As to the tenant's request for a return of personal property, the tenant submitted that he wanted the money the landlord owed from a previous dispute resolution matter. The tenant submitted a copy of the monetary order issued by another arbitrator on June 5, 2019.

Housecleaning-

The tenant said that he was under the impression that if the rental unit was cleaned at the end of the tenancy, the landlord would return their security deposit. The tenant submitted the landlord failed to return their security deposit, which led to their application for dispute resolution. In that dispute resolution matter, the tenants received a monetary order from another arbitrator, on June 5, 2019, in the amount of \$2,500.00. That amount included their security deposit of \$1,200.00, doubled.

According to the tenant, the landlord still has not paid the ordered amount, so they should be reimbursed the costs of housecleaning.

The tenant referred to his housecleaning receipt and photographic evidence.

Landlord's response-

The landlord said that the tenant and the four other tenants/occupants did not sufficiently clean the rental unit. The evidence disclosed that the landlord has her own dispute resolution hearing upcoming.

The landlord said that the tenant's evidence of a receipt does not prove he paid that amount.

Hydro costs-

The tenant said there was not a proper seal around the front door or windows, and in the winter months, this caused the tenants to use the heating on "full blast". The tenant submitted that a normal hydro bill would be \$150.00- \$200.00.

The tenant submitted that they notified the landlord of the issues, however, the window seal took 2 ½ months to be fixed.

The tenant submitted that they could determine the door was not properly sealed as they could see light coming through. The tenant said that they notified the landlord on November 5, however, it was not resolved until June 8, 2018.

The tenant referred to his documentary evidence, which included emails to the landlord.

Landlord's response-

The landlord submitted that per the written tenancy agreement, the tenants are responsible for their own heating. She further said they mentioned nothing about the drafts to the landlord's agent.

The landlord submitted that her evidence shows that she addresses any repair when mentioned, and in this case, construction delays with the tenant not being available or missing appointments contributed to the matter not being resolved immediately.

The landlord submitted that on November 15, 2017, the tenant missed the appointment for the glass company, for which she was responsible for the call-out fee.

The landlord referred to her documentary evidence, the emails between the parties and emails between the landlord and the glass company and other repair companies.

Court services costs-

The tenant submitted a copy of the court services receipt, showing he paid \$21.00 to file the monetary order received in a previous dispute resolution matter. The tenant said he should be reimbursed this amount, particularly since the landlord has not paid the monetary order.

Analysis

After reviewing the relevant evidence, I provide the following findings, based upon a balance of probabilities:

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other party for damage or loss that results. Section 7(2) also requires that the claiming party do whatever is reasonable to minimize their loss. Under section 67 of the Act, an arbitrator may determine the amount of the damage or loss resulting from that party not complying with the Act, the regulations or a tenancy agreement, and order that party to pay compensation to the other party. In this case, the tenant has the burden of proof to substantiate his claim on a balance of probabilities.

Return of personal property-

I find this is not a proper request by the tenant. A claim by a tenant under this section of the Act involves when a tenant has left their personal property, either willingly or unwillingly, in the rental unit or which has been retained by the landlord.

I find this request is more in a request for enforcement of a previous monetary order issued by another arbitrator.

Further, I am unable to enforce a previous monetary order with another, unrelated application. As the tenant is aware, that previous monetary order is legally binding and must be enforced in the provincial court, Small Claims division.

Housecleaning-

Under section 37 of the Act, when a tenant vacates the rental unit, the tenant must leave the rental unit reasonably clean, and undamaged, except for reasonable wear and tear.

I find the tenant has provided no basis under the Act to be reimbursed for cleaning costs at the end of the tenancy. For instance, there is no proof that the landlord violated the Act when the tenant chose to hire cleaning services at the end of the tenancy.

I find that as the tenant chose which method to clean the rental unit, the Act does not provide compensation for this choice of the tenant.

For these reasons, I dismiss the tenant's claim for housecleaning.

Hydro costs-

I find it unreasonable that the tenant would expect reimbursement in full of all the hydro costs for five people due to an issue with a door and window seal. The tenant did not ask for a portion of the hydro bill due to their alleged increased costs, which I find would be a reasonable claim.

Even at that, I further find that the tenant has not proven that the hydro costs incurred were higher due to issues with seals around a door or window. The tenant only occupied the rental unit for one winter and had no comparison to other winters.

Additionally, where a tenant requests repairs, I find the landlord must be afforded a reasonable amount of time to take sufficient action.

In this case, I find the documentary evidence of the landlord shows that she addressed the repair requests and there was no delay in addressing the concerns of the tenant. I

therefore cannot conclude that the landlord was negligent or violated the Act regarding her requirements of addressing the required repairs.

As a result, I find the tenant submitted insufficient evidence that the landlord breached her obligation under the Act.

I therefore find the tenant submitted insufficient evidence to prove this claim for full hydro costs and dismiss this portion of their application.

Court services costs-

I am aware that a filing fee in Small Claims court attaches to any order and will eventually be reimbursed when enforced.

I therefore find this is not a proper claim under the Act for this new dispute resolution matter. It is therefore dismissed.

Ink and paper supplies-

The Act does not provide for the reimbursement of expenses related to disputes arising from tenancies other than the filing fee. This claim is dismissed.

As I have dismissed all the tenant's monetary claims, I dismiss the tenant's application, in full, including his request to recover the filing fee.

Conclusion

For the reasons set out above, I have dismissed the tenant's application, 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 13, 2020