



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KAITON REALTY GROUP INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCT, FFT

Introduction

On September 24, 2019, the Tenant made an Application for Dispute Resolution seeking a Monetary Order for compensation pursuant to Section 67 of the *Residential Tenancy Act* (the “*Act*”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Tenant attended the hearing and F.M. attended the hearing as an agent for the Landlord. All in attendance provided a solemn affirmation.

The Tenant advised that she served the Notice of Hearing and evidence package to the Landlord by registered mail on or around September 24, 2019 and F.M. confirmed that the Landlord received this package. Based on this undisputed testimony, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord was served with the Notice of Hearing and evidence package.

F.M. advised that the Landlord’s evidence was served to the Tenant by registered mail on January 8, 2020 and the Tenant confirmed receiving this evidence. Based on the undisputed testimony, as this evidence was served in compliance with the timeframe requirements of Rule 3.15 of the Rules of Procedure, I have accepted this evidence and will consider it when rendering this decision.

All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Tenant entitled to a Monetary Order for compensation?
- Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on February 1, 2005. The Tenant was not sure how much rent was but according to her it was approximately \$675.00 per month. F.M. confirmed with his office that rent was \$761.00 per month and that it was due on the first day of each month. The Tenant was not sure of this amount but stated that it was “probably correct.” All parties agreed that a security deposit of \$312.50 was also paid.

The Tenant advised that she was seeking compensation in the amount of **\$54.00** calculated as her 2019 rent increase (\$18.00 per month) for the months of October, November, and December 2019 because of an incident that happened on September 3, 2019 involving another tenant of the building. She stated that there is one washer and one dryer accessible for the 10 unit building that she lives in.

She submitted that on the evening of September 3, 2019, she checked the washing machine twice; however, she was unable to do her own laundry as someone had left their laundry unattended in the washing machine. She waited a few hours for someone to remove their clothing from the machine. As no one came, she removed this laundry, and proceeded to do her own. Shortly after this, she heard someone slamming doors and swearing. When she went to check on her laundry, she found two fabric sheets and some lint in her laundry.

She attempted to discuss this issue with her neighbour, but he did not answer, so she left a note under his door. She went to do another load of laundry and there was a man there who angrily told her not to touch his laundry. She confirmed with him that he slammed the doors earlier, that he shouted, and that he left his laundry unattended, but he denied putting the fabric sheets and lint in her laundry.

The next day, she brought this to the attention of F.M. and expressed her concerns. She then called the police the day after to report this incident. On September 6, 2019, she informed F.M. that she notified the police about this incident, but he did not provide any satisfactory solution.

She advised that she was seeking compensation in the amount of **\$240.00** calculated as an estimated 2020 rent increase (\$20.00 per month) for the months of January 2020 to December 2020 as her loss over this period of time. She also advised that she was seeking compensation in the amount of **\$252.00** calculated as an estimated 2021 rent increase (\$21.00 per month) for the months of January 2021 to December 2021 as her loss over this period of time. In addition, she advised that she was seeking compensation in the amount of **\$264.00** calculated as an estimated 2022 rent increase (\$22.00 per month) for the months of January 2022 to December 2022 as her loss over this period of time. Finally, she advised that she was seeking compensation in the amount of **\$1,190.00** for her loss of quiet enjoyment and emotional distress. When asked to explain how she calculated this loss, she stated that she chose this amount as it would round up the total claim to \$2,000.00. She advised that she has not had any further incidents with this other tenant since September 3, 2019.

The Tenant was advised that she could not apply for future losses that she has not suffered yet. In addition, she could not explain how the above three compensation requests, for essentially what would amount to a rent reduction, was not related to her claims for loss of quiet enjoyment. In essence, what the Tenant was doing was double dipping in her claims. As she was unable to explain this and as some of these losses had not even occurred yet, the claims for \$240.00, \$252.00, and \$264.00 are dismissed without leave to reapply.

F.M. advised that he was informed of this incident by the Tenant and he followed up with the accused tenant as well. He disagrees with the Tenant's portrayal of what happened, and he referenced the account of the accused tenant that was submitted as documentary evidence. He stated that the accused tenant had left a note a year prior in the laundry room asking that his laundry not be touched. He stated that on September 3, 2019, the Tenant did not make any attempts to communicate that she was in urgent need of doing laundry nor did she make any indication in the laundry room of such. He stated that the Tenant's request is that he evict the other tenant as this other person is responsible for her loss of quiet enjoyment.

F.M. disagrees with the nature of the Tenant's Application and it is his belief after investigating the matter that she created the tension between the parties. He advised that the other tenant put a note on the laundry machine when he is using it, advising anyone wishing to do laundry that it is currently in use. Since this suggestion, there have been no further issues.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

With respect to the Tenant's claims for damages, when establishing if monetary compensation is warranted, I find it important to note that Policy Guideline # 16 outlines that when a party is claiming for compensation, "It is up to the party who is claiming compensation to provide evidence to establish that compensation is due", that "the party who suffered the damage or loss can prove the amount of or value of the damage or loss", and that "the value of the damage or loss is established by the evidence provided."

Regarding the Tenant's claims for compensation, as noted earlier, her claims for \$240.00, \$252.00, and \$264.00 are dismissed without leave to reapply. Therefore, the claims I will be considering are the ones for **\$54.00** and **\$1,190.00**, and those would be addressed together.

With respect to these two claims, I find it important to emphasize that the burden of proof is on the Tenant to prove her claims and her loss. While the consistent evidence is that there may have been a disagreement over laundry on September 3, 2019, this was an isolated incident. There have been no further issues with laundry since then. Furthermore, the Tenant provided no proof that the other tenant was responsible for the alleged garbage found in her laundry. As such, I find that there is insufficient evidence to support her claims for a loss due to the incident on September 3, 2019.

While she also alleges that part of her claims stem from not being comfortable around the other tenant that she is in dispute with, she has provided little evidence, apart from her personal feelings, of what exactly is being done and when these specific incidents have occurred by this other tenant to corroborate her claims of loss. Moreover, her

justification for claiming for \$1,190.00 for no other reason other than it added up to \$2,000.00 exactly causes me to question the legitimacy of her claims.

Based on the scant evidence before me and the unsubstantiated claims of the Tenant, while she may feel as if there is ongoing tension and this has subjected her to a loss, I do not find that she has established her claim. It appears as though this was an isolated incident that stemmed from a disagreement over the use of the laundry facilities in September 2019. Consequently, I dismiss the Tenant's claims in their entirety.

As the Tenant was not successful in this Application, I find that she is not entitled to recover the \$100.00 filing fee paid for this Application.

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 31, 2020

Residential Tenancy Branch