



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. The participatory hearing was held on February 3, 2020. The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement, pursuant to section 67; and,
- recovery of the filing fee.

The Landlords attended the hearing. The Tenant (and his wife) also attended the hearing and provided testimony. The Tenant confirmed that they found and negotiated the tenancy on behalf of their son, who was the one staying in the unit. The Landlord confirmed receipt of the Tenant's application and evidence, and the Tenant confirmed receipt of the Landlord's evidence.

Both parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Is the Tenant entitled to compensation for money owed or damage or loss under the Act?

Background and Evidence

The parties agree that monthly rent was \$700.00 per month, and no security deposits were paid. The parties did not have a written tenancy agreement, and only had loose, poorly laid out terms and a series of emails. It appears the Tenant posted an ad online looking for accommodation, and the Landlord responded to the ad, offering her rental unit to the Tenant. The Tenant (as named on this application) and his wife found the rental unit, negotiated the terms, and set up tenancy for their son, who was the one who stayed in the unit.

The tenancy started on September 1, 2019. The rental unit is a furnished bachelor suite, with a small bathroom and a kitchenette. The rental unit did not have laundry facilities. The Tenant moved out less than 3 weeks later, on September 20, 2019.

Both parties provided copies of emails dating back to June 2019, which is when communications regarding the tenancy began. The Tenant also included some condensed and consolidated emails/text message communication that were cut and pasted. These messages were not formally date stamped and it is unclear who sent and who received these messages, as they are largely unformatted and poorly labelled. There are also a series of emails at the beginning of June where the parties began discussing the nature of the rental agreement.

On June 5, 2019, the parties exchanged some emails regarding the rental unit. The Landlord pointed to an email where she explained that she would be going down into the rental unit for “cleaning etc” on the weekends. The Landlord explained in the hearing that this was a furnished rental, and she included towels, some linens, and general cleaning as part of monthly rent, which she did mostly on the weekends. The Landlord confirmed that they had access to the suite from an internal door, but denies that she abused this access as alleged. After the Tenant received the above noted email, where the Landlord explained that she would be accessing the unit for “cleaning etc”, the Tenant (his wife on behalf of their son) replied back to ask the Landlord to formalize the agreement, as she did not want to “miss the opportunity” to rent the space for her son.

After a few back and forth emails in early June, the Landlord sent a brief summarizing email on June 15, 2019, outlining when the tenancy would start (September 1, 2019), when it would end (April 2020), how much rent would be (\$700.00), and that there was no damage deposit. The Landlord stated that in their conversations, it was always clear

that she would need to enter the unit occasionally for cleaning. In an email from August 29, 2019, the Tenant's mother confirmed that she would like to use the Landlord's towels.

The Tenant stated that they never agreed to allow the Landlord access to the rental unit and had they known the Landlord expected to access the suite on the weekends, they would not have taken the unit for their son. The Tenant stated that since they were paying monthly rent, it is reasonable to expect exclusive access to the suite for the whole time, without the Landlord entering at will.

The Tenant stated that their son lived in the unit for a couple of weeks, he became uncomfortable because he believed the Landlord was accessing his unit without proper notice, through the internal access door to the upstairs. The Tenant stated that he had a meeting with the Landlord on September 16, 2019, where he asked the Landlord to comply with Act, and not access his unit. The Tenant stated he also asked the Landlord to put an additional lock on the internal door (where the Landlord could enter from inside the house).

The Landlord stated she refused to put an additional lock on the door, as there already was a lock. The Tenant was not happy because the lock was on the Landlord's side of the door. The Landlord also stated that the Tenant viewed the rental unit and when he agreed to take it, no issues were raised about the locks.

The Tenant stated that they requested that an additional lock be installed on the interior door, and the Landlord refused to do this. The Tenant stated that his son did not feel comfortable with the Landlord being able to enter his suite, which is a big part of the reason he moved out on September 20, 2019. The Tenant stated that he believes the Landlord entered his son's suite while he was out on multiple occasions, for more than just cleaning purposes. The Tenant stated his son put a laundry hamper against his door (which was moved when he came home). The Tenant stated his son also put a paper clip on the door, and it was moved when he came home.

The Landlord denies that she entered the suite for personal reasons, or for any other purpose than to clean up, and do laundry. The Tenant stated the Landlord used his son's fridge to put a cake in without his permission, but no photos or videos were provided documenting this issue. The Tenant provided a photos of the interior door, and a paper clip on the ground to show the Landlord entered the suite after they raised the issue of her coming into the unit without proper notice.

The Tenant stated that his son moved out to a different rental unit on September 20, 2019, and had to pay an additional \$300.00 per month. The Tenant was asked during the hearing to explain how he calculated the amounts he is seeking, and although it was slightly different than his worksheet, he explained that he wants to be compensated for this extra \$300.00 per month that his new rental unit has cost him over a 7 month period (from October to April 2020). This amounts to \$2,100.00. The Tenant is also seeking to get back the rent he paid to the Landlord for the last 10 days in September 2019 in the amount of \$333.00.

Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim. In this case, the Tenant is seeking compensation to cover the extra costs he incurred after having to move out of the rental unit into a more expensive rental unit.

As clarified in the hearing, the Tenant is seeking \$2,433.00 for 7 months of added rental expenses at his new place, and to recover the rent he paid for the last 10 days of September 2019. The Tenant stated that his new rent is \$1,000.00 and the extra \$300.00 per month should be paid by the Landlord, as it was her fault the Tenant had to move.

I note there was no written tenancy agreement, signed by the parties. In this case, there are a few emails that were exchanged as part of a conversation about the rental in the months leading up to the start of the tenancy. I note there are some emails, which are date stamped and clearly indicate who sent, and who received the messages. Although I find they are not a formal written tenancy agreement, I find these emails are reliable evidence with respect to what was being discussed leading up to the start of the tenancy.

I also note the Tenant provided several pages of what appear to be consolidated text messages (cut and pasted into email form), to further highlight the communications. However, I find they are not sufficiently labelled and laid out, such that they provide a reliable and fulsome account of what was said, when, and by who. I have placed little weight on the Tenant's large blocks of cut and pasted text messages in making my findings.

I note the tenancy lasted only a couple of weeks but I find the basic components of a tenancy agreement have been met, even though it was never formally put into writing.

The Tenant agreed to rent a small, furnished bachelor suite, for \$700.00 per month. The parties disagree with respect to whether or not the landlord was allowed to enter the unit to clean, and if so, when. I note there are a few emails detailing loose and poorly laid out arrangements for the terms of the tenancy. I note that the Tenant's mother agreed to have the Landlord provide towels for the bathroom in an email from August 29, 2019.

I also note the Landlord explained in one email, early on in the tenancy negotiations, that she would be going down into the rental unit for "cleaning etc" on the weekends which she described as dealing with linens, towels, and general cleaning. The Tenant does not deny getting this email, and it appears that, after the Tenant received the above noted email, where the Landlord explained that she would be accessing the unit for "cleaning etc", the Tenant (or someone on his behalf) replied back to ask the Landlord to formalize the agreement, as they did not want to "miss the opportunity" for the space.

The Tenant is alleging that they never agreed to let the Landlord access the unit while his son was out (for cleaning or otherwise). However, it appears that there were some informal and loose arrangements for the Landlord to provide some cleaning services. I do not find the Tenant has sufficiently demonstrated that some cleaning (towel service, and/or general cleaning) was not part of the agreement or the expectations, given it was part of their discussions leading up to the start of the tenancy. I find the Tenant has failed to show that some limited access would not be expected in order to accommodate some housekeeping related services. I note there is insufficient evidence to substantiate that this access was abused or that it went beyond what was discussed. I find the Tenant has failed to substantiate that the Landlord accessed the unit for any other purpose than to clean/change the laundry in the unit, occasionally.

I note the Tenant requested the locks be changed and another lock be added to the interior door separating his unit from the Landlord's unit, and when this was refused, it contributed to the escalation of the dispute regarding the Landlord's access. The Tenant's son moved out shortly after this formal conversation as it did not appear they were on the same page. However, without further evidence showing the Landlord was abusing or misusing the nature and extent of their access, I find there is insufficient evidence the Tenant was entitled to have the an additional lock added.

Ultimately, if the Tenant felt the Landlord's access was being misused or abused, he could have filed an application for dispute resolution to resolve all access related matters while he was living there. At that time an arbitrator could have made determinations regarding what access was reasonable, and at that time the Landlord (or

the Tenant) could have been ordered to comply with particular portions of the Act in order to ensure the tenancy could be successful. Instead, the Tenant decided to move out rather than pursue dispute resolution to resolve the issues surrounding locks and access. I find there is insufficient evidence to show that the Tenant was forced out of the rental unit such that he would be entitled to the compensation he is seeking (the added costs for securing his new rental unit).

As the Tenant was unsuccessful with his application, I decline to grant the recovery of the filing fee.

Conclusion

The Tenant's application is dismissed, in full, 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: February 4, 2020

Residential Tenancy Branch