



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT

Introduction

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

- a monetary order for money owed or compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement, pursuant to section 67.

The tenant testified and supplied documentary evidence that she served the landlord with the Notice of Hearing and Application for Dispute Resolution by registered mail, sent on November 29, 2019, and deemed received under the Act five days later. The tenant testified that the packages came back unclaimed by the landlords. The tenant subsequently sent the package again to both landlords by registered mail on March 12, 2020 and was signed for and accepted by the landlords on March 16, 2020, accordingly; the hearing proceeded and completed in the absence of the landlords. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

Issue to be Decided

Is the tenant entitled to a monetary order as compensation for loss or damage under the Act, regulation or tenancy agreement?

Background, Evidence

The tenant's testimony is as follows. The tenancy began on April 1, 2014 and ended on December 6, 2017. The tenant testified that on October 19, 2017 a flood occurred that damaged many items in her unit. The tenant testified that she had told the landlords in May or June 2017 that a bad smell was emanating from the suite. The tenant testified the landlord advised that the "main city line" broke. The tenant testified that she was coerced to sign a mutual end of tenancy. The tenant testified that the landlords should

compensate her for the damage to her goods, the cost she incurred for staying in a hotel for a month, storage costs, moving costs, higher rent for a new apartment, dental work that she alleges was a result of stress dealing with this issue, and other miscellaneous expenses. The tenant seeks a monetary claim \$15,763.39.

Analysis

While I have turned my mind to all the documentary evidence and the testimony of the tenant, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the tenants claim, and my findings is set out below. It is worth noting that the tenant was extremely disorganized when presenting her claim. She was unable to answer basic questions or provide answers to the claim she put forth or able to explain the amount she noted on the application and what she was seeking on the day of the hearing. Much of her claim lack clarity or logic. The tenant presented her evidence in a very disjointed and vague fashion.

In addition, the tenant would add and subtract items from her claim during the hearing and would alter the amount she was seeking. The tenants' testimony and documentation were in conflict through much of the hearing, when it was; I considered the sworn testimony in coming to her monetary calculations. Residential Tenancy Branch Rules of Procedure 3.7 addresses this issue as follows.

3.7 Evidence must be organized, clear and legible

All documents to be relied on as evidence must be clear and legible.

To ensure a fair, efficient and effective process, identical documents and photographs, identified in the same manner, must be served on each respondent and uploaded to the Online Application for Dispute Resolution or submitted to the Residential Tenancy Branch directly or through a Service BC Office.

For example, photographs must be described in the same way, in the same order, such as: "Living room photo 1 and Living room photo 2".

To ensure fairness and efficiency, the arbitrator has the discretion to not consider evidence if the arbitrator determines it is not readily identifiable, organized, clear and legible.

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. **In order to claim for damage or loss under the Act, the party claiming the damage or loss bears the burden of proof.** The claimant must provide **sufficient evidence of the following four factors**; the existence of the damage/loss, that it stemmed directly from a violation of the agreement or a

contravention of the *Act* on the part of the other party, the applicant must also show that they followed section 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage being claimed, and that if that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

The tenant is seeking compensation for a city water main that ruptured and flooded her suite. The landlord does not have the authority to make repairs to a city line or to conduct regular inspections or maintenance. Furthermore, the tenant and her advocate spent almost the entire 55-minute hearing explaining how she incurred costs but did not provide sufficient evidence to show how the landlord was negligent or reckless. Each time her advocate asked her a question, she would provide different version of the events and then get into an unrelated topic, the more questions that advocate asked, the more contradictory her testimony became. I find the tenants testimony unreliable.

As noted above, a party must satisfy the four factors outlined to be successful in obtaining a monetary order. The tenant was unclear and vague in the amount she was seeking as I have mentioned above, and she has not been able to provide sufficient evidence that the landlords were negligent or reckless; accordingly, I dismiss the tenant's application in its entirety.

Conclusion

The tenant's application is dismissed in its entirety 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: April 24, 2020

Residential Tenancy Branch