



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MT, OLC, LRE, PSF, AAT, MNDCT, OT, FFT

Introduction

On March 27, 2020, the Tenant applied for a Dispute Resolution proceeding seeking to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”) pursuant to Section 46 of the *Residential Tenancy Act* (the “Act”), seeking more time to dispute the Notice pursuant to Section 66 of the *Act*, seeking an Order for the Landlord to comply pursuant to Section 62 of the *Act*, seeking to restrict the Landlord’s right to enter pursuant to Section 70 of the *Act*, seeking provision of services pursuant to Section 62 of the *Act*, seeking access to the rental unit pursuant to Section 30 of the *Act*, seeking a Monetary Order for compensation pursuant to Section 67 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Tenant attended the hearing with K.K. attending the hearing later as a witness for the Tenant. The Landlord did not attend the one hour and twenty-two-minute hearing. All parties provided a solemn affirmation.

The Tenant advised that she served the Notice of Hearing and evidence package by registered mail to the Landlord on April 2, 2020 (the registered mail tracking number is noted on the first page of this Decision). The tracking history indicated that this package was delivered on April 6, 2020. Based on this undisputed testimony, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord has been served the Notice of Hearing and evidence package.

As per the hearing, the Tenant advised that she had given up vacant possession of the rental unit and had no intention of returning there. As a result, the Tenant’s request to cancel the 10 Day Notice to End Tenancy for Unpaid Rent, her request for more time to dispute the Notice, her request for an Order to comply, her request to restrict the Landlord’s right to enter, her request for provision of services or facilities, and her request for access to the rental unit are dismissed without leave to reapply.

Consequently, the only claim on her Application that will be addressed in this Decision will be with respect to her request for monetary compensation.

All parties 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 monetary compensation?
- Is the Tenant entitled to recover 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.

The Tenant advised that the tenancy started on January 1, 2020 and that she had given up vacant possession of the rental unit on or around March 19, 2020. Rent was established at \$1,200.00 per month and was due on the first day of each month. A security deposit of \$600.00 was also paid. A tenancy agreement was never established in writing.

She stated that she was in the hospital in the last week of February 2020, that the Landlord came to visit her in the hospital, and that she paid the Landlord \$1,100.00 rent on or around February 24, 2020. She stated that she did not pay the remaining \$100.00 towards rent as she had to spend that money on hospital supplies. When she left the hospital on March 7, 2020, she tried to pay the Landlord the \$100.00 in arrears multiple times; however, the Landlord refused to accept payment. On March 9, 2020, she purchased a money order of \$100.00 and sent it to the Landlord by registered mail (the registered mail tracking number is on the first page of this Decision). She referenced the documentary evidence submitted to prove this payment.

On March 13, 2020, she went away for the weekend and she received a text from the Landlord advising her that her truck would be towed, and that the rental unit would be inspected. She replied and warned the Landlord that she was not entitled to do this. She returned to the property on March 15, 2020 and the Landlord towed her truck. She

referenced the texts, submitted as documentary evidence, demonstrating the Landlord's threats about towing the truck and she submitted pictures of the truck being towed away. She also submitted an invoice to support the cost of the truck towing charge. She advised that she is seeking compensation in the amount of **\$258.56** for the cost of the towing bill.

K.K. advised that as the Tenant was out of town, she requested that K.K. help with retrieving the truck. She stated that she was provided with a spare key to the truck, and when she went to the property to try and retrieve it, it was already loaded and was in the process of being towed away. She stated that the Landlord was hostile to her.

On March 17, 2020, the gate to the property was locked so she was unable to get into the rental unit. She also received the Notice on or around this date. She texted the Landlord; however, the Landlord told her not to return to the property and threatened to pack her belongings. The Tenant went to report this to the police, but they told her it was a residential tenancy matter. As she had nowhere to stay, she went to a hotel. On March 19, 2020, she went to the property with the police but the locks to the rental unit were changed by the Landlord. She stated that the police confronted the Landlord to advise her that what she had done was illegal; however, the Landlord would not unlock the door to the rental unit, so the police told the Tenant to get in by any means necessary. The Landlord then let the Tenant into the rental unit. Based on the locks being changed illegally and all the harassment by the Landlord, the Tenant felt it would be best to give up vacant possession of the rental unit, so she cleaned and moved that day. As she was unable to live in her rental unit due to the Landlord's behaviours, she stayed in a hotel until March 25, 2020. She submitted a receipt for the hotel cost, and she is seeking compensation in the amount of **\$1850.06** for having been illegally evicted.

She also stated that she is seeking compensation in the amount of **\$55.00** for the cost of replacement of her medication that the Landlord had disposed of. She submitted text messages requesting that the Landlord return the needed medications after preventing her from returning to the rental unit; however, the Landlord did not return them. She also submitted receipts to support the cost of these medications.

The Tenant advised that when she was able to gain access to the rental unit on March 19, 2020, she discovered that the Landlord had packed up most of the Tenant's food from the fridge, freezer, and cupboards. She referenced a text from the Landlord which indicated that the Landlord had donated this food to the local food bank. She is seeking compensation in the amount of **\$650.00** for the cost of replacement of food in the rental

unit and she cited the supporting witness statements corroborating the estimated amount of food that was left in the rental unit. As well, she is seeking compensation in the amount of **\$150.00** for the cost of food that a home support worker had stored in the rental unit, as this person was supposed to stay and care for the Tenant as well.

K.K. advised that she visited the rental unit prior to the Tenant going away on vacation on March 13, 2020 and she was shocked at the amount of food that the Tenant had, although it was consistent given the pandemic situation. She estimated that the Tenant had at least \$400.00-\$500.00 worth of meat and she stated that the Tenant had specific dietary restrictions, so the pantry was packed accordingly. When she was present on March 19, 2020, she verified that the fridge had been emptied and there were only a few items left in the cupboards. She estimated that the total food loss would have been approximately \$600.00-\$700.00. As well, she contacted the food bank where the Landlord had allegedly donated the food and they had no record of any donations.

Finally, the Tenant was seeking a return of her security deposit as well; however, she advised that she had not provided the Landlord with a forwarding address in writing and the only time the Landlord would have received this address would have been when the Notice of Hearing package was served to her.

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 request for the return of her security deposit, pursuant to Section 38 of the *Act*, the Tenant must first provide her forwarding address in writing to the Landlord and the Landlord must then deal with the security deposit, in accordance with this Section of the *Act*, within 15 days of receiving this forwarding address. If the Landlord does not deal with the security deposit accordingly within 15 days of receiving the forwarding address in writing, the Tenant can then re-apply for double the deposit, pursuant to the *Act*.

As she confirmed that she did not provide a forwarding address in writing to the Landlord, pursuant to the *Act*, prior to making this Application, I find the Tenant's Application on this issue to be premature. Therefore, the Landlord is put on notice that she now has the Tenant's forwarding address and she must deal with the security deposit, pursuant to Section 38 of the *Act*, within 15 days of receiving this Decision. If

the Landlord does not deal with the security deposit within 15 days of receiving this Decision, the Tenant can then re-apply for double the deposit, pursuant to the Act.

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 claim for the towing of her vehicle, the consistent and undisputed evidence is that this vehicle was towed away. As such, I am satisfied from the evidence provided that the Tenant has established this claim, and I grant the Tenant a monetary award in the amount of **\$258.56**.

With respect to the Tenant's claim for compensation for having to live in a hotel from March 16 to March 25, 2020 because the Landlord effectively forcibly evicted her illegally, I am satisfied from the undisputed evidence that the Tenant had her access to the rental unit restricted and was forced to stay elsewhere. As such, I find that the Tenant has adequately established this claim, and I grant her a monetary award in the amount of **\$1,850.06**.

Regarding the Tenant's claim for the replacement cost of her medication, I am satisfied from the consistent and undisputed evidence that she was prevented access to her rental unit and from her property within. Furthermore, I am satisfied that the Landlord did not return her medication either. As a result, I find that the Tenant has adequately established this claim, and I grant her a monetary award in the amount of **\$55.00** to satisfy this claim.

Finally, with respect to her claims for the cost of replacement of food that was disposed of illegally by the Landlord, the consistent and undisputed evidence is that there was some food in the rental unit that was disposed of by the Landlord. However, there is insufficient evidence to support the exact cost of the total amount of food that was removed. While there is supporting documentation of the estimation of how much this food cost, I am not satisfied that the Tenant's evidence supports the \$650.00 and the \$150.00 that she was claiming. As I am satisfied that there was some food loss, I find that the Tenant should be granted a monetary award in the amount of **\$400.00** to satisfy these claims.

As the Tenant was successful in this Application, I find that she is entitled to recover the \$100.00 filing fee paid for this Application.

Pursuant to Sections 67 and 72 of the *Act*, I grant the Tenant a Monetary Order as follows:

Calculation of Monetary Award Payable by the Landlord to the Tenant

Costs associated with towing	\$258.56
Costs associated with hotel	\$1,850.00
Costs associated with replacement of medication	\$55.00
Costs associated with replacement of food	\$400.00
Filing fee	\$100.00
TOTAL MONETARY AWARD	\$2,663.56

Conclusion

The Tenant is provided with a Monetary Order in the amount of **\$2,663.56** in the above terms, and the Landlord must be served with **this Order** as soon as possible. Should the Landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: May 25, 2020

Residential Tenancy Branch