



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, FFT

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*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for its application from the tenant, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The parties acknowledged receipt of evidence submitted by the other. 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. The landlord was represented by his daughter.

Issue(s) to be Decided

Is the tenant entitled to a monetary order as compensation?

Is the tenant entitled to recover the filing fee for this application from the landlord?

Background and Evidence

The tenant gave the following testimony. The tenant testified that he moved into the unit about five years ago and moved out on January 1, 2020. The tenant testified that he was given "illegal rent increases". The tenant testified that he received a rent increase of \$55.00 in 2017, \$25.00 in 2018 and \$200.00 for 2019. The tenant testified that all of these amounts exceeded the regulations and that he should be compensated for overpayment of rent. The tenant provided a calculation of \$3030.00 in overpayment and also seeks the recovery of the \$100.00 filing fee.

The landlord's agent gave the following testimony. The agent testified that the increases were due to the tenant requesting laundry, cable and having an additional occupant. The agent testified that the tenant was the one that suggested the amount for the laundry increase. The agent testified that the tenant and her father came to an agreement that the rent would increase \$200.00 for the additional occupant and increased water costs. The agent testified that her father was confused as to why the tenant applied for this hearing as they had discussed and agreed to it and that the tenancy ended without any indication that this was an issue.

Analysis

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.

In regard to the first rent increase the tenant stated, "I decided to let it slide". In regard to the second rent increase, the tenant was the one that asked for laundry access and offered the additional \$25.00 to the scheduled increase. As for the third increase, the tenant stated that he was planning on moving and "I didn't want to create any issues and wanted to create a smooth transition for myself as I wanted a good reference from the landlord". The landlord's agent testified that none of these rental increases were disputed by the tenant until after he moved out and came as a surprise to the landlord. It was very clear to me and confirmed by the tenant, that he did not voice his displeasure to these increases and willingly accepted them. The tenant has not provided sufficient evidence to show that he is entitled to the compensation as requested as he has not met the four factors listed above, specifically his lack of mitigation in this matter. The tenant provided extensive documentation, however there was insufficient proof that the rent increases were a problem. The tenant has not been successful in this application.

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: June 02, 2020

Residential Tenancy Branch