



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, RP

Introduction

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

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order to the landlord to make repairs to the rental unit pursuant to section 32.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed the tenant served the landlord with the notice of hearing package and 20 files out of the 61 documentary evidence files via regular post. The tenant confirmed that she had submitted 6 late evidence packages to the Residential Tenancy Branch and the landlord within the 14 day limit before the scheduled hearing. The tenant stated that these were screen shots of conversations with the landlord. The tenant stated that she understood that these were submitted late and that the hearing could proceed without them. The landlord confirmed that no documentary evidence was submitted.

I accept the undisputed affirmed evidence of both parties and find that both parties were properly served with the notice of hearing package as per sections 88 and 89 of the Act. The tenant's 6 late evidence packages are excluded from consideration as the landlord has disputed that these were not served and the tenant confirmed that they were not required and that they were submitted late within the 14 day limit before the scheduled hearing.

Preliminary Issue(s)

At the outset the tenant clarified that she no longer is requesting an order for repairs as she has since moved and secured a new tenancy and the necessary repairs were made by the landlord. As such, no further action is required.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for compensation?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The tenant seeks a monetary claim of \$535.00 for hotel costs for a 4 night stay after discovering termites (later discovered to be flying ants) in her rental unit around 1am. The tenant stated that the landlord was immediately notified via email requesting assistance but no response was forthcoming. The tenant vacated the rental unit to a local pet friendly hotel with her cat awaiting a response from the landlord.

Both parties confirmed that the landlord after the long weekend had pest control to service the rental unit and the tenant was temporarily moved to another unit. Both parties also confirmed that subsequently the tenant gave notice to end the tenancy and has since moved.

The landlord stated that she acknowledged that the tenant is entitled to recovery of the hotel costs of \$535.00 for the hotel stay of 4 nights.

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 prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

In this case, I accept the undisputed affirmed evidence of both parties. The landlord has confirmed the incident with the tenant's rental unit and agrees that the tenant is entitled to recovery of her hotel costs of \$535.00. On this basis, the tenant's monetary claim is granted.

Conclusion

The tenant is granted a monetary order for \$535.00.

This order must be served upon the landlord. Should the landlord fail to comply with this order, the 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: August 11, 2020

Residential Tenancy Branch