



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MAINSTREET EQUITY CORP. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRT, MNDCT, FFT

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;
- a monetary order for the cost of emergency repairs to the rental unit pursuant to section 33;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony that the tenant served the landlord with the notice of hearing package and the submitted documentary evidence in person. Both parties also confirmed the landlord served the tenant with their submitted documentary evidence via Canada Post Registered Mail on Jul 21, 2020. Neither party raised any service issues. I accept the undisputed affirmed evidence of both parties and find that both parties have been sufficiently served as per sections 88 and 89 of the Act.

At the outset, the tenants confirmed that there was a clerical error in adding their monetary claim. The actual total is \$5,270.00 instead of the filed amount of \$4,980.00. The tenant stated that no amendment was filed and that they were content to accept the maximum original claim total filed of \$4,980.00.

The hearing was adjourned due to a lack of time after 78 minutes. On August 13, 2020 the hearing was reconvened with both parties present.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for the cost of emergency repairs, for money owed or compensation and recovery of the filing fee?

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.

This tenancy began on January 1, 2018 on a fixed term tenancy ending on June 30, 2018 and then thereafter on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated December 29, 2017. The monthly rent was \$1,025.00 payable on the 1st day of each month. A security deposit of \$512.50 was paid.

The tenant seeks a monetary claim of \$4,980.00 which consists of:

\$100.00	Cost of Fuse Replacement (20 @\$5/ea)
\$120.00	Cost of Purchased electric heaters
\$50.00	additional electrical cost
\$80.00	Cost of Ambulance
\$100.00	Cleaning cost after water leak
\$1,500.00	Furniture Damage re: bed bugs
\$2,000.00	Cost of mattress replacement re: bed bugs
\$220.00	Refund of 6 days of rent
\$100.00	Loss of Wasted Groceries re: fridge repair
\$60.00	Unjustified cash payment for fridge repair
\$30.00	Cost of replacing burnt out light bulbs
\$600.00	Move Out Costs
\$210.00	Deduction from Damage Deposit
\$100.00	Filing Fee
\$5,270.00	Total
\$4,980.00	Adjusted Claim Total limit as filed

The tenant seeks recovery of \$100.00 for the cost of blown fuses which the tenant paid to the landlord. The tenant stated that there is a problem with the wiring in the rental unit which has caused the fuses to burn out repeatedly. The landlord disputes this claim arguing that there is no wiring issue, but that the tenant has repeatedly

overloaded the fuses causing them to burn out. The tenant confirmed this but argues that the kitchen only has one working electrical outlet and the tenant is forced to use it which causes the overload.

The tenant seeks recovery of \$120.00 for the cost of purchasing electrical heaters. The tenant stated that despite notifying the landlord there was an ongoing heat issue, the tenant was forced to purchase heaters to provide heat as it was too cold. The landlord disputed this claim confirming that there was a boiler problem, but that it was resolved. The landlord stated that all tenants were advised that they could be provided with "space heaters" and that they could submit copies of their hydro bills and the landlord would reimburse them for the difference. The landlord stated that the tenant had refused the offer of the "space heaters" and has not submitted any bills for hydro charges incurred due to the boiler issue. The landlord also confirmed that upon being notified the landlord attended the rental and took temperature readings in all the rooms which showed a temperature range of 23-27 degrees Celsius. The tenant re-argued that there was not heat as they took temperature readings (shown in submitted photographs). A review of the photographs submitted show a temperature reading of under 111 fahrenheit, which converted is approximately 43 degrees Celsius.

The tenant also seeks recovery of \$50.00 for the cost of increased electrical usage. The landlord stated that all tenants were informed that reimbursement for the cost of electricity was made to all tenants due to the boiler issue. The landlord disputed this claim stating that the tenant never submitted any invoices/statements for the cost of increased electricity during the tenancy. During the hearing both parties came to a settlement and agreed that the landlord would compensate the tenant for the difference in the increased usage of electricity for \$13.00.

The tenant seeks \$80.00 for the cost of an Ambulance. The tenant stated that flood water from a clogged sink which leaked onto the kitchen floor. The tenant claims that her son slipped on the flood water and hit his head against one of the appliances. The tenant's son suffered a cut on his head and was taken to the hospital in an ambulance. The landlord disputes this claim stating that at no time was the landlord informed of the clogged sink. The tenant stated that the landlord was notified one day after the injury of the clogged sink. The tenant further argues that this is a recurring clogging issue. The landlord reiterated that there have been no reports of any recurring clogging issues by the tenant.

The tenant seeks \$100.00 for the cost of cleaning after the water leak. The tenant stated that following a leak from the ceiling over the kitchen, the tenant was forced to

use all their towels cleaning up without any assistance from the landlord after they were notified. The tenant stated that she was forced to throw out all the towels as she was not sure on the what type of water was leaking. The tenant seeks compensation for the loss of towels and several hours of work cleaning up the leak.

The tenant seeks compensation of \$1,500.00 for damaged furniture due to bedbugs, mice and cockroaches. The tenant stated that the landlord was notified of a mice issue several months prior to the end of tenancy. The tenant has submitted 4 photographs of a couch that the tenant stated was damaged. The tenant stated that the mice, bedbugs and cockroaches were trapped in the couch. The tenant had to rip open the cover of a chair, sofa and other furniture to prevent nesting by the bugs and mice. The landlord disputes this claim arguing that the tenant had only notified the landlord of a mice issue in March 2018 for which a hole under the heater was patched. The landlord stated that no further reports were made by the tenant on mice or bedbugs and cockroaches. The tenant stated that the monetary claim of \$1,500.00 was based upon a "guess" and not any invoices/receipts nor has the tenant submitted any supporting evidence of mice, cockroaches or bedbugs. The landlord stated that as of the date of this adjournment, no reports of bedbugs have been made from the current tenants of the rental unit.

The tenant seeks compensation of \$2,000.00 for the cost of replacing 4 mattresses due to bedbugs at \$500.00 each. The tenant stated that because of the issue with mice, bedbugs and cockroaches, the tenant disposed of their 4 mattresses and replaced them. The landlord disputes this claim arguing as made previously on the tenant's furniture claim that no evidence has been submitted of bedbugs, mice or cockroach issues other than the one reported in March 2018. The tenant stated that no receipts/invoices for any mattresses were presented or any supporting evidence of the mattresses with bedbugs, mice or cockroach infestation.

The tenant seeks \$220.00 as compensation for the return of 6 days of rent. During the hearing the tenant stated that cancelled this portion of the claim. As such, no further action is required.

The tenant seeks \$100.00 for the loss of wasted groceries in the refrigerator due to the not working. The tenant stated that the landlord was notified and a repairman did not attend to fix it for several days. The landlord disputes this claim arguing that each time an issue is reported a work order is generated with a conclusion. Both parties confirmed that an issue with the tenant's refrigerator was reported by text message on August 2, 2019. The landlord provided a copy of a work order stating that they did attend due to a report of the "fridge too cold". The landlord stated that the issue was

resolved by cleaning the air vent. The tenant stated that on August 14, 2019 an issue with the fridge was again reported that it was “not working”. The landlord stated a technician attended and reset the timer. Both parties agreed that on August 15, 2019 the tenant reported another fridge problem that it was “not cold” and that “milk is rotten”. The landlord attempted to attend to inspect and repair the fridge, but was told by the tenant not to attend without their being present. The tenant did not provide any details of loss only that 2 packages of meat, 2 packages of fruit and 2 packages of vegetables were lost. The landlord argues that the tenant most likely suffered the loss due to delaying the landlord’s opportunity to attend and make immediate repairs.

The tenant seeks recovery of a \$60.00 cash payment to the refrigerator repairman. The tenant claims that the landlord’s repairman charged \$60.00 for a part to repair the refrigerator. The tenant claims that the repairman would not make the repairs without the payment. The landlord disputes this claim stating that the landlord did not have access to the part required to fix the refrigerator. The landlord claims that the tenant was informed that the repairman had his own company and access to the part to repair the refrigerator. The landlord claims that the tenant was informed that the repairman could replace the part but for a \$60.00 cash payment for the part only. The landlord clarified that the tenant was informed that the refrigerator timer was broken due to the tenant’s misuse of the refrigerator and was responsible for this cost.

The tenant seeks \$30.00 for the cost of replacing burnt out light bulbs. The tenant stated that the tenant purchased up to 10 light bulbs to replace burnt out bulbs during the tenancy. The tenant believes that there may be an issue with the wiring was the cause. The landlord disputed this claim arguing that the tenant has never reported a lighting issue for the living room. The landlord stated that the only repairs for outlets were for a bedroom.

The tenant seeks compensation of \$600.00 for the cost of moving for the rental of a truck. The tenant claims that she was forced to move as it was too cold in the rental unit. The tenant provided affirmed testimony that with the help of her agent, temperature readings were made twice in December 2019 of 18 degrees Celsius and 10 degrees Celsius. The tenant stated that the landlord was notified of this heating issue on November 16, 2019 as per a workorder. The tenant did not submit any invoice/receipts for this claim. The landlord argues that the tenant completed a “MEQ Notice to Vacate” dated January 6, 2020 in which the tenant selected 3 reasons for ending the tenancy which were:

Work related

Rent too expensive
Noise levels

The landlord argues that the tenant did not note any issues with being unhappy or that there was a problem with the heat. The tenant argued that the tenant did not understand what selections were being made when the notice was completed.

The tenant also seeks \$210.00 for the return of a deduction from the tenant's security deposit. The landlord argued that the tenant agreed to the deduction in an agreement made with the landlord. The tenant confirmed that the tenant did agree to the deduction. The tenant cancelled this portion of the claim. As such, no further action is required.

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.

On the first claim of \$100.00, I find that the tenant has failed. Despite the tenant's arguments that there was only one working electrical outlet in the kitchen, the tenant did know that overloading the one kitchen outlet would cause the fuse to overload and burnout. On this basis, this portion of the tenant's claim is dismissed.

On the tenant's claim of \$120.00, I find that the tenant has failed to establish a claim for the cost of purchasing portable heaters. The landlord provided undisputed affirmed evidence that all tenants in the rental building were notified that "space heaters" were available to all tenants for use. The landlord provided undisputed testimony that the tenant refused the "space heaters" nor has the tenant submitted any invoices for utility costs incurred for the extra usage. On this basis, the tenant's application is dismissed.

On the tenant's claim for recovery of the \$80.00 cost of an ambulance, I find that the tenant has failed. Despite the tenant's claim that a flood had occurred from a clogged sink which leaked onto the kitchen floor, the tenant failed to notify the landlord of this

particular incident to allow the landlord an opportunity to resolve the issue until 1 day after the accident. I also note that despite knowing of the leaking water on the kitchen floor, the tenant did not exercise any reasonable caution in allowing her son to walk on the kitchen floor. On this basis, this portion of the tenant's claim is dismissed.

I find that the tenant's claim for \$100.00 in cleaning costs has failed. Despite the tenant's claim of the ceiling water leak over the kitchen, the landlord provided affirmed testimony that the landlord and two maintenance persons attended shortly after it was reported. The tenant disputed that the landlord had attended. The tenant claims that towels were used to clean up the water leak and were thrown out as the source of the water could not be determined. The tenant also claimed that 2-3 hours of her time were spent cleaning/wiping up the leak. The landlord argued that their records only show one report of a plumbing issue on July 26, 2019 for the vanity sink backing up. The landlord also argued that the tenant has failed to provide any invoice/receipts for any expenses incurred for this claim. I find on a balance of probabilities that the tenant has failed to provide sufficient evidence to establish a claim for cleaning expenses. The tenant stated during the hearing that there is no receipts or particulars provided to support this claim. On this basis, this portion of the tenant's claim is dismissed.

I find that the tenant's claim for \$1,500.00 as compensation for damaged furniture has failed. The tenant failed to provide any conclusive evidence that the damaged furniture was in fact damaged due to mice or cockroaches. The tenant relies solely on 4 photographs of a couch that the tenant confirmed was ripped open. The landlord also provided undisputed evidence that the tenant has not provided any further reports of mice or cockroaches. The tenant stated that the monetary claim amount of \$1,500 was a "guess" not based upon any invoices/receipts for any expenses paid. This portion of the tenant's claim is dismissed.

The tenant's claim for \$2,000.00 for the cost of replacing 4 mattresses has failed. I find on a balance of probabilities that the tenant has failed to provide sufficient evidence of the 4 mattresses being infested by bedbugs or cockroaches. The landlord provided undisputed affirmed testimony that other than one report in March 2018, the tenant has never notified the landlord of any ongoing bedbug or cockroach issues. The tenant has also not provided any invoice/receipts for any expenses in regards to this claim. This portion of the tenant's application is dismissed.

I find in this claim that the tenant has failed to establish a claim for \$100.00 for the loss of groceries. Both parties confirmed that an issue was reported to the landlord on August 15, 2019 of another fridge problem. The landlord attempted to attend right away to inspect and repair the issue, but was told by the tenant not to attend without her

being present. On this basis, I find that as the landlord was not allowed into the rental unit to perform an inspection and any possible repairs, the tenant's groceries could have been saved. Despite this the tenant made no alternative plans to keep safe her groceries by not allowing the landlord access. I also find that the tenant has failed to provide sufficient particulars of any lost groceries. On this basis, this portion of the tenant's claim is dismissed.

On the tenant's claim for recovery of a \$60.00 cash payment for a replacement part, I find that the tenant has failed. The tenant has failed to provide sufficient evidence of her claim. I find that I prefer the evidence of the landlord over that of the tenant in this situation that the landlord notified that tenant that the part was broken due to the tenant's negligence/misuse. This is shown in the landlord's evidence that the tenant had reported multiple different issues with the refrigerator.

The tenant seeks recovery of a \$60.00 cash payment to the refrigerator repairman. The tenant claims that the landlord's repairman charged \$60.00 for a part to repair the refrigerator. The tenant claims that the repairman would not make the repairs without the payment. The landlord disputes this claim stating that the landlord did not have access to the part required to fix the refrigerator. The landlord claims that the tenant was informed that the repairman had his own company and access to the part to repair the refrigerator. The landlord claims that the tenant was informed that the repairman could replace the part but for a \$60.00 cash payment for the part only. The landlord clarified that the tenant was informed that the refrigerator timer was broken due to the tenant's misuse of the refrigerator and was responsible for this cost. As such, the this portion of the tenant's claim is dismissed.

This portion of the tenant's claim for \$30.00 for the cost of replacing burnt out lightbulbs is dismissed. I find on a balance of probabilities that the tenant has failed to provide sufficient evidence of a wiring issue in the living room. The landlord has disputed this claim arguing that no electrical issues were reported except for the bedroom outlets which were repaired.

I find that the tenant's claim for recovery of \$600.00 for moving costs (truck rental) has failed. The tenant has claimed that she was forced to end the tenancy and move due to a lack of heat. The landlord argues that the tenant completed a "MEQ Notice to Vacate" which request the tenant's reasons for the notice. It states in part that the tenant selected 3 reasons for ending the tenancy which were:

Work related
Rent too expensive
Noise levels

As such, I find on a balance of probabilities that the tenant's claim is dismissed that the tenant did not have any heat issues as the reason for ending the tenancy.

The tenant has established a claim for compensation of \$13.00.

As the tenant has been only partially successful in her application for dispute, I order that the tenant is entitled to recovery of \$50.00 for the filing fee.

Conclusion

The tenant is granted a monetary order for \$63.00.

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 of British Columbia.

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: September 30, 2020

Residential Tenancy Branch