



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant filed under the Residential Tenancy Act (the "Act"), for a monetary order for compensation for loss or other money owed and to recover the cost of the filing fee.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issue to be Decided

Is the tenant entitled to monetary compensation for loss or other money owed?

Background and Evidence

The tenancy began on March 1, 2020. Rent in the amount of \$975.00 was payable on the first of each month. A security deposit of \$487.50 was paid by the tenant.

The tenant claims as follows:

a.	Rent of March and April rent (\$975.00 x 2)	\$1,950.00
b.	Moving costs	\$ 450.00
c.	Filing fee	\$ 100.00
	Total claimed	\$2,600.00

The tenant testified that they noticed a problem in the bathroom with mould growing around the bathtub and they notified the landlord of the problem on April 27, 2020. The tenant stated that they sent picture to an expert and they were told that they should immediately vacated the premise as it was a safety issue. The tenant stated that they informed the landlords on May 5 that they were vacating on May 6, 2020.

The tenant confirmed at the hearing that they did not loss use of the bathroom or any other portion of the rental unit.

The tenant testified that they trusted that the home was safe and because it was not safe, they should be entitled to recover all rent paid to the landlords, plus moving costs.

The landlord testified that they were notified that there was a problem in the bathroom on April 27, 2020 and went there the next day to investigate and make a temporary repair. The landlord stated that they informed the tenant that they would replace the tub surround. The landlord stated they were addressing the concerns of the tenant.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the tenant has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

In this case, the tenant seeks the return of all rent paid to the landlords for their entire tenancy. I find this is unreasonable as the tenant had not lost the use of any portion of the rental unit, including the bathroom which is the subject of this hearing.

While I accept that there may have been an issue with the bathroom and the tenant notified the landlord on April 27, 2020. I find the landlords took immediate and appropriate actions, as they attended the rental unit on April 28, 2020, to investigate the problems in the bathroom. The tenant was also informed at that time that the landlords would purchase and install a new tub surround. I find the landlords took appropriate and reasonable steps to address the tenants concern. I find the tenant has failed to prove a violation of the Act.

Further, I find the tenant did not give the landlords a reasonable amount of time to make the repairs as the tenant vacated nine days later, without given the landlords proper notice to end the tenancy as required by the Act.

Furthermore, the tenant present no supporting evidence that this is black toxic mould or a health and safety concern. While I accept the tenant sent picture to someone who the tenant claimed was a mould expert; however, they did not attend the premise to do any investigation or do any testing. I find it would be impossible to make that reasonable conclusion simply by looking at a photograph.

I have reviewed the photographs filed by the tenant, they do not support this is a health or safety issue ; rather they simply show that minor repairs maybe needed in the bathroom, which the landlords were investigating and making repairs.

Based on the above, I find the tenant has failed to prove a violation of the Act by the landlords, or that they suffered any loss. Therefore, I dismiss the tenant's application without leave to reapply. Since I have dismissed the tenant's application, I find the tenant is not entitled to recover the cost of the filing fee.

Conclusion

The tenant's application is dismissed.

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 29, 2020

Residential Tenancy Branch