



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, FFT
 MNRL, FFL

Introduction

This hearing dealt with an Application for Dispute Resolution (the Application) filed by the Tenant under the Residential Tenancy Act (the Act), seeking:

- Compensation for monetary loss or other money owed in the amount of \$1,600.00; and
- Recovery of the filing fee.

This hearing also dealt with a Cross-Application filed by the Landlord under the Act, seeking:

- Unpaid/lost rent for the second half of January 2020; and
- Recovery of the filing fee.

The hearing was originally convened by telephone conference call on October 2, 2020, at 1:30 PM and was attended by the Tenant, the Tenant's spouse, an agent for the Tenant (the Agent), the Landlord and the Landlord's spouse, all of whom provided affirmed testimony. The hearing was subsequently adjourned, and an interim decision was made on October 6, 2020, and the reconvened hearing was set for January 26, 2021, at 1:30 PM. A copy of the interim decision and the Notice of Hearing were sent to each party by email by the Residential Tenancy Branch (the Branch) on October 6, 2020, and a copy was mailed to the Agent on October 7, 2020, as per their requests at the first hearing. For the sake of brevity, I will not repeat here all of the matters covered or findings of fact made in the interim decision dated October 6, 2020. As a result, the interim decision should be read in conjunction with this decision.

The hearing was reconvened by telephone conference call on January 26, 2021, at

1:30 PM. The Tenant and the Agent attended the reconvened hearing at the scheduled time, ready to proceed. No one appeared on behalf of the Landlord. The Tenant and the Agent were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

Rule 7.3 of the Rules of Procedure states that if a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply. As I am satisfied that the Landlord was sent a copy of the interim decision and the notice of hearing for the reconvened hearing date by the Branch by email on October 6, 2020, in accordance with their request at the first hearing, and no one appeared at the reconvened hearing on behalf of the Landlord, I therefore dismissed the Landlord's Application without leave to reapply. The hearing therefore proceeded only on the basis of the Tenant's Application seeking \$1,600.00 in compensation for monetary loss or other money owed and recovery of the \$100.00 filing fee.

Although I have reviewed all evidence and testimony before me that met the requirements of the Rules of Procedure, I refer only to the relevant and determinative facts, evidence and issues in this decision.

Issue(s) to be Decided

Is the Tenant entitled to \$1,600.00 in compensation for monetary loss or other money owed?

Is the Tenant entitled to recovery of the \$100.00 filing fee?

Background and Evidence

The tenancy agreement in the documentary evidence before me, signed on September 5, 2019, states that the month to month (periodic) tenancy commenced on September 15, 2019, that rent in the amount of \$1,600.00 is due on the first day of each month, that the Tenant is responsible for 40% of the electric bill for the home, the upper portion of which is occupied by the Landlord and their spouse, and that an \$800.00 security deposit was required.

The Tenant stated that they gave written notice on December 13, 2020, by email, to end the tenancy at the end of December 2020, and that they vacated the rental unit early on December 21, 2020. The Tenant stated that they ended their tenancy early as a result

of a breaches to material terms of the tenancy agreement on the part of the Landlord, specifically unsafe living conditions, harassment, stress, and duress.

The Tenant sought \$1,600.00 in compensation, the equivalent of one months rent, for harassment and unsafe living conditions they stated that they, their spouse, and their child endured during the three month tenancy, including the absence of exterior lighting which resulted in an injury to their child, constant requests to enter their suite to access storage areas, often with improper notice, the Landlord's refusal to provide them with a mail key, and ongoing interactions with the Landlord which the Tenant and their spouse described as harassment, regarding things like the cost of electricity in the winter and the Landlord's desire for the Tenant to sign an amendment to the tenancy agreement after the start of the tenancy. The Tenant, their spouse, and the Agent submitted written statements, along with a receipt for payment of the security deposit, photographs, copies of email correspondence between the Tenant and the Landlord, a monetary order worksheet and a copy of the tenancy agreement in support of their claim.

No one appeared on behalf of the Landlord at the reconvened hearing to provide any evidence or testimony for my consideration.

Analysis

Based on the uncontested documentary evidence and testimony before me for consideration from the Tenant, their spouse and the Agent, I am satisfied on a balance of probabilities that a tenancy to which the Act applies existed.

As no one appeared on behalf of the Landlord at the reconvened hearing to oppose the above noted testimony and documentary evidence of the Tenant, their spouse and the Agent, I therefore grant the Tenant's unopposed Application seeking \$1,600.00 in compensation from the Landlord for harassment, duress, improper entry to the rental unit and unsafe living conditions during the tenancy, pursuant to sections 7, 28, 29, and 32 of the Act. Pursuant to section 72(1) of the Act, I also grant the Tenant recovery of the \$100.00 filing fee.

Pursuant to section 67 of the Act, I therefore grant the Tenant a monetary order in the amount of \$1,700.00.

Conclusion

The Landlord's Application is dismissed without leave to reapply.

Pursuant to section 67 of the Act, I grant the Tenant a Monetary Order in the amount of \$1,700.00. The Tenant is provided with this Order 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. The Landlord is cautioned that costs of such enforcement may be recoverable from them by the Tenant.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: February 25, 2021

Residential Tenancy Branch