



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT

Introduction

This hearing dealt with the tenant's application pursuant to section 67 of the *Residential Tenancy Act* (the "Act") for a monetary award for damages and loss.

The tenant and one of the respondents, DB (the "Landlord") attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The tenant was assisted by an advocate. The respondent DD did not attend the hearing.

The Landlord confirmed service of the tenant's application and materials and said they have not served any evidence of their own. The tenant testified that they served both named respondents by registered mail sent on January 8, 2021. The tenant provided a valid Canada Post tracking information as evidence of service. Based on the evidence I find the respondent DB duly served in accordance with the Act and respondent DD deemed served on January 13, 2021, five days after mailing, in accordance with sections 88, 89 and 90 of the Act.

A typographic error identifying the rental unit was corrected at the start of the hearing. The corrected rental address is used in the style of cause for this decision.

Issue(s) to be Decided

Is the tenant entitled to a monetary award as claimed?

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 arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

The parties agree on the following facts. This periodic tenancy began in March 2020 and ended in August 2020. Monthly rent was \$1,200.00. The rental unit is a suite in a multi-unit building.

The tenant submits that they found the rental unit to contain multiple deficiencies when taking possession at the start of the tenancy. The issues included old, dirty appliances, poor flooring and unpainted walls. The tenant says that they were unable to have a working refrigerator for several weeks and that they lost the use of much of the rental unit when the landlord commenced work in the suite.

The tenant testified that they suffered some negative health effects due to the landlord's cleaning activities in the rental unit and that there was a toxic odor from the rugs in the rental unit. The tenant submitted into evidence written submissions and some photographs of the suite in support of their claim. The tenant seeks a monetary award of \$2,400.00, the equivalent of 2 month's rent.

The landlord disputes that the rental unit was deficient to the degree or duration that the tenant states. The landlord gave evidence that they have addressed any need for repairs, maintenance or replacement of appliances in a reasonable timeframe. The landlord testified that the cleaning products used are natural and should have no negative health effects. The landlord gave undisputed evidence that other suites in the rental property were offered to the tenant should they wish to relocate.

Analysis

Pursuant to Residential Tenancy Rule of Procedure 6.6 the onus is on the applicant to establish their claim on a balance of probabilities.

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.

I find insufficient evidence in support of the tenant's monetary claim. I find that the submissions of the tenant are more in the nature of subjective complaints and do not demonstrate the landlord's actions or inactions to be a breach which would give rise to a monetary award. I find the photographs of submitted by the tenant, their written submissions and testimony to be insufficient to establish that the suite contained ongoing deficiencies that were not addressed by the landlord.

I accept the landlord's evidence that they responded to requests for work in a reasonable timeframe. While the tenant may not have been satisfied with the response of the landlord there is little evidence that the landlord was unresponsive or negligent. I find the tenant's complaints about detrimental health effects from cleaning products to not be supported in the documentary evidence. I find that a copy of a box of eyedrops to be insufficient to demonstrate that there were health consequences more than would be reasonably expected during cleaning.

I find that the tenant has not met their evidentiary burden on a balance of probabilities to establish their monetary claim. Consequently, I dismiss the application in its entirety without leave to reapply.

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: March 12, 2021

Residential Tenancy Branch