



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL FFL

Introduction

This hearing was convened as a result of the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act). The landlord applied for a monetary order of \$389.80 for the cost of damages to the unit, site or property and to recover the cost of the filing fee.

An agent for the landlord, PC (agent), a property manager for the landlord, JK (property manager), the tenant and an agent for the tenant, BF (tenant agent) appeared at the teleconference hearing and gave affirmed testimony. During the hearing the parties were given the opportunity to provide their evidence orally and respond to the testimony of the other party. I have reviewed all evidence before me that was presented during the hearing and that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). However, only the evidence relevant to the issues and findings in this matter are described in this decision.

As the tenant and tenant's agent confirmed having received the landlord's application and their documentary evidence, and confirmed that they did not submit any documentary evidence in response to the landlord's application, I find the tenant was sufficiently served and there were no service issues raised during the hearing.

Preliminary and Procedural Matters

The parties were informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The parties were also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the parties were informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance

Enforcement Unit for the purpose of an investigation under the Act. Neither party had any questions about my direction pursuant to RTB Rule 6.11.

In addition, the parties confirmed their respective email addresses at the outset of the hearing and stated that they understood that the decision and any applicable orders would be emailed to them.

Finally, tenant agent BF, requested to be removed as a respondent as they were not a tenant and the agent agreed. As a result, and by consent of the parties, and in accordance with section 64(3)(c) of the Act, the name of the tenant agent was removed from the application as they are not a tenant under the Act.

Issues to be Decided

- Is the landlord entitled to a monetary order under the Act, and if so, in what amount?
- Is the landlord entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. The tenancy began on February 1, 2017 and ended on August 30, 2020. The parties agreed that the security deposit and key/fob deposits have already been returned in accordance with the Act. As a result, I will not be dealing with the security deposit in this decision.

The landlord's monetary claim is for \$389.80, which is comprised of a dryer repair bill of \$289.80, plus the \$100.00 filing fee.

Landlord's Evidence

The agent confirmed during the hearing that there were no instructions for the use of the dryer provided to the tenant at the start of the tenancy. The agent presented an invoice dated August 31, 2018 as the called received date and September 6, 2018 as the service date and is in the amount of \$289.80 which includes tax. The invoice states the following in part:

Problem – DRYER NOISE

Service Rendered and Parts Used – REPLACED BLOWER WHEEL FUNCTION
TESTED OKAY DRYER SHEETS CAUSED EXCESSIVE WEAR TO BLOWER
WHEEL

[Reproduced as written]

The agent also referred to a “Dryer Ventilation Notice” dated December 18, 2017, which the agent stated was posted in the elevators and reads in part as follows:

We have been advised that dryers are at risk of overheating if not properly ventilated. This can cause the dryer to stop working.

It is advised to do the following:

- Keep the closet doors open while using the dryer

It is advised to **avoid** the following:

- Store items on or too close to the dryer
- Use fabric softener sheets

We thank you for your cooperation.

[Reproduced as written]

The landlord also presented a tenant “Maintenance Work Request” dated August 28, 2018 from the tenant which reads in part:

1. DRYER SOUND INCREDIBLY LOUD.
2. VINYL STRIP ON ENTRANCE TO WASHROOM PEELING
3. CIRCULAR PLASTIC DRAIN COVER FOR SINK CAME OFF
4. OVEN HEAT LEAK BURNING COUNTERS

[Reproduced as written]

The agent stated that based on the service technician determining that dryer sheets were the issue that resulted in the dryer blower being damaged, that the tenant is responsible for the cost.

Tenant's Evidence

The tenant confirmed that they did see the notice in the elevator; however, had only used dryer sheets for the first week of February 2017, when the tenancy began and switched to laundry soap, which included softener based on his dad's advice that dryer

sheets left residue on the items being dried and that the tenant was given laundry soap from Costco, that contained liquid softener, so had no use for their remaining dryer sheets as result.

The tenant's agent stated that the dryer had a blower added to the dryer which sat on top of the dryer (blower unit) and that the dryer contained a lint trap and that there was also a secondary lint trap above the dryer attached to the blower unit. At some point during the tenancy, there was a rattling sound coming from the secondary lint trap on the blower unit, which resulted in a Repair Request being filled out and the tenant and the tenant's agent stated that the solution was to place a piece of cardboard where the secondary lint trap was and that it was taped in place, which help reduce but not eliminate the rattling noise.

The tenant testified that when they went to the office, they saw a dryer sheet and some socks on the desk, so the tenant stated that was proof that there was issues with blower unit in other rental units, which the agent did not dispute during the hearing. The tenant's agent stated that the dryer was being used as a dryer, with clothing only and nothing out of the ordinary. The tenant's agent also stated that the use of dryer sheets stopped in February 2017, many months before the notice was placed in the elevator on or about December 2017.

The tenant's agent states that the blower unit was defective if it is sucking up dryer sheets and sock and damaging the blower wheel inside the blower unit. The tenant denies any misuse of the dryer and denies that they are responsible for the cost to repair the blower unit as a result. The tenant reiterated that they have only been using liquid laundry detergent in the washing machine since the second week of February 2017 and that damage to the blower unit of the dryer in August 2018 had to have been from a stuck dryer sheet from the first week of the tenancy.

Surrebutter by Landlord

The agent stated that the tenant did not provide any receipt for the liquid softener, to which the tenant's agent stated that while they neglected to submit the receipts, it could be found, if necessary.

Analysis

Based on the documentary evidence, the testimony of the parties, and on the balance of probabilities, I find the following.

Test for damages or loss

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided in sections 7 and 67 of the *Act*. Accordingly, an applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did what was reasonable to minimize the damage or loss.

In this instance, the burden of proof is on the landlord to prove the existence of the damage/loss and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the tenant. Once that has been established, the landlord must then provide evidence that can verify the value of the loss or damage. Finally, it must be proven that the landlord did what was reasonable to minimize the damage or losses that were incurred.

Where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails.

Firstly, I afford no weight to the lack of receipt for liquid laundry detergent as the tenant does not have the burden of proof in this matter, the landlord has the burden of proof.

Secondly, based on all of the evidence before me and the fact that the agent did not dispute that socks were found in other blower units or that other blower units in the building were also damaged, I find it more likely than not that the blower units were defective and were not damaged by reasonable use of the dryer. In reaching this finding, I find that the landlord failed to provide any dryer instructions at the start of the tenancy. In addition, I find that socks and dryer sheets are reasonable to be used in dryers and the fact that the building dryer blower units were being damaged from dryer sheets is not the fault of the tenant, it is the result of defective dryers.

Thirdly, I find the tenant's version of events, that the dryer sheet(s) found in the blower unit were from February 2017, as the tenant's agent supported their testimony and

confirmed it was them that purchased the liquid laundry detergent with softener for the tenant.

Based on the above, I find the landlord has failed to provide sufficient evidence of any breach of the Act, regulation or tenancy agreement on the part of the tenant. Therefore, I dismiss the landlord's application due to insufficient evidence, without leave to reapply.

I do not grant the filing fee as the application has failed.

Conclusion

The landlords' claim is dismissed due to insufficient evidence, without leave to reapply.

I do not grant the landlords the recovery of the cost of the filing fee.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: May 18, 2021

Residential Tenancy Branch