



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RR, FFT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65; and
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

At the outset of the hearing, I explained to the parties that as these hearings were teleconferences, the parties could not see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so.

All parties acknowledged these terms. As well, all parties in attendance provided a solemn affirmation. All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I explained the hearing and settlement processes to both parties. Both parties had an opportunity to ask questions. Both parties confirmed that they were ready to proceed with the hearing, they did not want to settle this application, and they wanted me to make a decision regarding this application. Neither party made any adjournment or accommodation requests. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Issue – Tenants late evidence

OC testified that he did not receive the tenants' evidence until October 18, 2021, well outside the legislated timeline. OC testified that the tenant had ample opportunity to provide evidence well before the deadline. OC testified that he only received the evidence after he served some evidence to the tenant. OC testified that because of the late submission, he was not afforded the ability to respond properly and poignantly to the claim. The tenant testified that he wasn't aware of the requirements for submitting evidence until it was too late. The tenant testified that he understands that "its too bad for me that the evidence isn't included".

3.14 Evidence not submitted at the time of Application for Dispute Resolution Except for evidence related to an expedited hearing (see Rule 10), documentary and digital evidence that is intended to be relied on at the hearing must be received by the respondent and the Residential Tenancy Branch directly or through a Service BC Office not less than 14 days before the hearing. In the event that a piece of evidence is not available when the applicant submits and serves their evidence, the arbitrator will apply Rule 3.17.

The tenant acknowledged that he received the Notice of Hearing Document on July 19, 2021 with all the instructions clearly outlined but failed to carry them out without sufficient justification not to, accordingly; the tenant's documentary evidence was not considered in making a decision. However, he was given a full opportunity to provide his testimony for consideration.

Issue(s) to be Decided

Is the tenant entitled to a rent reduction or monetary compensation?

Is the tenant entitled to the recovery of the filing fee from the landlord for this application?

Background and Evidence

The tenant gave the following testimony. The tenancy began on June 6, 2021 with the monthly rent of \$2595.00 due on the first of each month. The landlord holds a security deposit of \$1297.50. The tenant testified that he is seeking \$892.50 as compensation for the following five reasons:

1. Move in was premature, unit not ready.

2. Quality issues with the unit, the unit is overvalued.
3. Frustration, inconvenience, and time wasted in getting repairs done.
4. Items promised to be repaired or replaced but not done.
5. Unprofessional service and communication from the property managers.

The tenant testified that at the outset of the tenancy the unit was dirty with numerous issues in terms of cleaning, plugged shower, old shower head, dirty area rug and scratches on furniture. The tenant testified that he was angry and frustrated on numerous occasions due to the unprofessional and careless attitude of the property managers. The tenant testified that they continually broke promises about replacing a rug or repairs to items in the unit. The tenant testified that the unit was overvalued and in need of a full renovation. The tenant requests \$892.50 as compensation along with the \$100.00 filing fee for a total claim of \$992.50.

OC gave the following testimony. OC testified that there were some minor deficiencies. OC testified that the tenant was very anxious to move even though the unit wasn't quite ready resulting in everyone rushing to satisfy the tenant's request. OC testified that at no time was the tenant coerced into renting the unit. CS testified that the unit was prepared at the tenants' request and that all repairs and deficiencies were dealt with in a timely manner. OC testified that they are happy to address any repairs and deficiencies that are needed and legitimate. OC testified that where there were delays in getting items, it was due to worldwide clogged supply lines due to COVID – 19 and not because of the landlords' inaction. OC testified that the tenant hasn't proven his claim and that it should be dismissed.

Analysis

The tenant has requested that he be given a rent reduction or monetary compensation for \$892.50 plus the \$100.00 filing fee. 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 provide **sufficient evidence of the following four factors**; the existence of the damage/loss, that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party, the applicant must also show that they followed section 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage being claimed, and that if that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

The tenant made various claims about deficiencies in the unit. OC submits that many were frivolous and without merit. SC submits that when there was legitimate repairs or issues, they dealt with them in a timely fashion.

The tenant has failed to provide sufficient evidence to satisfy me of the four factors listed above, specifically; evidence showing damage or loss, evidence showing that it stemmed from a violation of the agreement or a contravention of the *Act* on the part of the landlord, and evidence or information on how the tenant arrived at the amount sought. The tenant has not provided sufficient evidence to show that a rent reduction or monetary award is warranted, accordingly; I dismiss this 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: October 28, 2021

Residential Tenancy Branch