



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNDCT, FFT

Introduction

This hearing was convened in response to an application by the tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

- a monetary award for loss under the tenancy agreement pursuant to section 67 of the *Act*;
- a return of the filing fee pursuant to section 72 of the *Act*.

Both parties attended the hearing and were given a full opportunity to be heard, to present testimony, to make submissions and to call witnesses. The landlord confirmed receipt of the tenant’s application for dispute and the amendment. The landlord is found to have been served in accordance with section 89 of the *Act*. I note the tenant did not upload any evidence with her application for dispute.

The landlord acknowledged failing to serve the tenant in accordance with section 88 of the *Act* and I therefore decline to consider the evidence he uploaded. I did consider his oral testimony.

Both parties affirmed they were not recording the hearing pursuant to Rule of Procedure 6.11.

Issue(s) to be Decided

Is the tenant entitled to a Monetary Award? Can the tenant recover the filing fee?

Background and Evidence

This tenancy began on August 1, 2015 and ended on May 31, 2021. Rent was \$700.00 per month and a security deposit of \$325.00 was paid.

The tenant has applied for a monetary award of \$1,137.50. The tenant said she encountered numerous issues throughout the tenancy and alleged she suffered post-traumatic stress disorder (“PTSD”) as a result of her experiences during the tenancy. When asked by the arbitrator why she would remain in such a stressful tenancy, the tenant explained that the rent was affordable.

Specifically, the tenant is seeking the following compensation:

- leaking kitchen sink – September 4, 2020 to February 18, 2021: 5.5 months - \$137.50
- broken oven – March 13 to April 15: \$25.00
- breaker – October 12, 2020 to January 9, 2021: \$75.00
- bathroom faucet – January 31, 2018 to September 5, 2020: \$800.00

+ return of the \$100.00 filing fee

= \$1,137.50

The tenant testified that she made repeated attempts via text message and video message to the landlord urging him to have the repairs identified above undertaken. She claimed the landlord failed to fix the issues and failed to maintain the property in an acceptable manner. The tenant that she occasionally spoke to the landlord in person about her concerns related to the rental unit.

The landlord disputed all aspects of the tenant’s application. The landlord claimed all repairs were done in a timely manner and noted it was difficult for him to secure repair people during the current Covid pandemic. The landlord described the unit requiring minor repairs but argued all issues noted above were negligible, describing the bathroom faucet as having a “small leak similar to the one in [his] own home.”

Analysis

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. As noted in Policy Guideline #16, 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. In this case, the onus is on the tenant to prove her entitlement to a claim for a monetary award.

The tenant has applied for a monetary award of \$1,137.50. The tenant cited numerous alleged shortcomings with the property as they related to repairs that were not performed or maintenance that was brought to the landlord's attention and not addressed. The tenant said the landlord ignored her repeated requests to repair the sink, oven, breaker and faucet.

Section 32(1) of the *Act* states, "A landlord must provide and maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law and having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant."

After having considered the oral testimony of both parties I find the tenant has failed to demonstrate her entitlement to most of her monetary award, however, I will grant compensation for a broken oven (\$25.00) and a partial return of the filing fee (\$50.00). I find the oven to be an important appliance that a person can reasonably expected to use on a regular basis. Having a broken oven would no doubt be of great inconvenience. I note the parties only supplied oral testimony in support of their positions and as highlighted in Policy Guideline #16, the onus is on the applicant to prove their entitlement to a monetary award. I did find both parties credible and accept the testimony of both parties.

As noted above, pursuant to section 32 of the *Act*, I find the landlord had a duty to maintain the property, however, I also note the property was suitable for occupation and there was no evidence that the property failed to meet housing standards.

The tenant has failed to provide sufficient detail in the form of documentary evidence demonstrating loss under the tenancy related to a leaking faucet, breaker or sink and I find that a leaking sink and faucet do not affect the substance of the tenancy. I accept the landlord's testimony that the issues related to the breaker were in fact a different electrical manner for which repairs were made. I find that the tenant is not entitled to a monetary award related to these matters.

Conclusion

Pursuant to section 67 of the *Act*, I grant the tenant a Monetary Order of \$75.00 as follows:

ITEM	AMOUNT
Loss of Oven	25.00
Partial recovery of filing fee	50.00
TOTAL =	\$75.00

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: January 21, 2022

Residential Tenancy Branch