



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNL-4M, RR, RP, FFT**

Introduction

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

- cancellation of the landlord's 4 Month Notice to End Tenancy for Landlord's Use of Property (the "4 Month Notice") pursuant to section 49;
- an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order to the landlord to make repairs to the rental unit pursuant to section 33;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord was initially accompanied by an agent who exited the hearing upon learning that the issue of seeking an Order of Possession was no longer necessary.

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and the parties each testified that they were not making any recordings.

As both parties were present service was confirmed. The parties each testified that they received the respective materials and based on their testimonies I find each party duly served in accordance with sections 88 and 89 of the *Act*.

At the outset of the hearing the parties said the tenancy has ended with the tenant vacating the rental unit. The tenants withdrew the portions of their application seeking cancellation of the 4 Month Notice and pertaining to an ongoing tenancy.

Issue(s) to be Decided

Are the tenants entitled to a retroactive reduction in rent as claimed?

Are the tenants entitled to recover their filing fee from the landlord?

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. The monthly rent for this tenancy was \$2,600.00. A term of the tenancy agreement between the parties was that the tenants are entitled to a dishwasher. The dishwasher in the rental unit was not functioning from November 2021 to the end of the tenancy in March 2022. The landlord was aware of the deficiency but did not repair the dishwasher nor did they reduce the monthly rent for the reduction in its value.

The tenants seek a monetary award of \$350.00, the equivalent of \$50.00 or approximately 1.92% of the monthly rent for the reduction in the value of the tenancy due to the non-functioning appliance. The tenant testified that the loss of the dishwasher had some detrimental effect on the tenancy and were inconvenienced.

The landlord disagrees with the tenant's claim despite acknowledging that the dishwasher was broken and that a working dishwasher was a term of the tenancy agreement. The landlord gave some testimony complaining about cleaning the rental unit.

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. 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. This section, read in conjunction with section 65, allows me to make an order for the reduction in the value of the tenancy.

I accept the undisputed evidence of both parties that the dishwasher was included in the tenancy agreement and that it was broken from November 2021 to March 2022. I find that the landlord was obligated to provide a functioning dishwasher and they breached the tenancy agreement by failing to repair or replace the dishwasher when alerted by the tenants.

I find the landlord's testimony and complaints about the rental unit to be irrelevant to the matter at hand and of no probative value.

I accept the undisputed evidence of the tenants that the loss of the dishwasher had some detrimental effect on the value of their tenancy due to the need for additional chores. The tenants submit the loss was palpable but minor and suggest a monetary value of \$50.00 per month. I find the tenants' submissions persuasive. I find that the tenants suffered a loss in the value of the tenancy agreement due to the landlord's failure to provide a working dishwasher and issue a monetary award in the tenants' favour in the amount of \$350.00 (\$50.00 x 7 months) pursuant to section 67.

As the tenants were successful in their application, they are entitled to recover the filing fee from the landlord.

Conclusion

I issue a monetary order in the tenants' favour in the amount of \$450.00. 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 balance of the application is withdrawn and dismissed 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 31, 2022

Residential Tenancy Branch