



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, RR, OLC, RP, FFT

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution. A hearing by telephone conference was held on June 2, 2022. The Tenants applied for multiple remedies pursuant to the *Residential Tenancy Act* (the "Act").

Both Tenants and both Landlords attended the teleconference hearing and provided affirmed testimony.

Both parties confirmed receipt of each other's evidence packages and no service issues were raised.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure and evidence that is relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The Tenants applied for multiple remedies under the *Act*, a number of which were not sufficiently related to one another.

Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

At the outset of the hearing, I asked the Tenants which grounds on their application were their priority. The Tenants expressed that their priority was to obtain monetary compensation, rather than repairs, or other Orders. As a result, I exercised my

discretion to dismiss all of the grounds on the Tenant's application, with leave to reapply, with the exception of the following claims:

- I want compensation for my monetary loss or other money owed
- I want to reduce rent for repairs, services or facilities agreed upon but not provided

Issue(s) to be Decided

- Is the Tenant entitled to a rent reduction for the issues she has raised?

Background and Evidence

On the Tenants application, they indicated they were seeking compensation for several matters. However, during the hearing, the Tenants clarified that they are only seeking a retroactive reduction in rent in the amount of \$2,700.00 for the month of March 2022, due to the flood issue. The Tenants also stated that in addition to seeking 100% of their March rent back, they are also seeking \$52.26 to cover their electricity bills during this period, and for \$16.85 for water costs.

The Tenants explained that they moved into this rental unit around February 27, 2022. Both parties agreed that monthly rent was set at \$2,700.00, and was due on the first of the month. The day after the Tenants moved in, one of them was having a shower at around 1:00 am on March 1, 2022, and there did not appear to be anything wrong at that time. After going to bed, and at around 1:30 am that same morning, the Tenants awoke to the building manager trying to get into the rental unit because the unit below this rental unit was flooding. It was determined at that time that the water leak was coming from the shower in the rental unit. The Tenants explained that there are 2 bathrooms in their rental unit.

The Tenants stated that the Landlord/building manager sent a plumber and a restoration company to the rental unit the following morning, to address the matter, and left behind dehumidifiers and fans to dry out the affected wall area in the shower/tub. The Tenants stated that the plumber initially sealed the leak, and asked the Tenants to watch for further leaking. The Tenants stated that a couple of days later it leaked again from the same area (in and around the tub spout). The Landlord had a plumber come back again later that week, and replace the tub spout and re-caulk the area.

The Tenants stated that they lost the use of this bathroom from February 28, 2022, until March 8, 2022, because of the restoration and the dehumidifiers. The Tenants also stated that they do not feel the Landlords did enough to expedite the repairs, and respond in a timely manner. The Tenants assert they suffered emotionally from having to deal with the Landlord and the flood. The Tenants did not refer me to or elaborate on any of their documentary evidence. The Tenants stated that although their water was only turned off for a few hours during the plumbing work, they lost the use of one of their bathrooms for the first two weeks of March. As a result, the Tenants are seeking a 100% rent reduction for March.

The Tenants also stated that they are seeking \$52.26 which is the amount of their first BC Hydro bill, and it includes the time when the restoration fans and dehumidifiers were running for the first week of March. The Tenants provided a screenshot of the bill amount, but did not provide an actual copy of the bill or the breakdown. The Tenants are also seeking \$16.85 to pay for jugs of water they stated they had to buy because of the issue with their washroom. The Tenants did not explain why these water jugs were necessary and how they related to the plumbing issue in the shower. The Tenants also did not provide a receipt for the water.

The Landlords acknowledge that there was an issue with the tub spout in one of the bathrooms of the rental unit, which caused a flood in early March 2022. However, they pointed out that the issue was addressed reasonably quickly, and all work was completed by March 8, 2022. The Landlords stated that once work was completed, they notified the Tenants by text message, although no evidence was provided to support this message being sent.

The Landlord also pointed out that the Tenants still had the use of their other bathroom, which also had a shower, and they also still had use of the rest of the rental unit; only the one bathroom was out of commission for about a week. The Landlords stated they feel the claim is excessive. The Landlords stated that they were not initially sure what the issue was with the tub/shower, but eventually the plumber determined that there was a crack in the tub spout, and this was replaced.

Analysis

A party that makes an application against another party has the burden to prove their claim.

In this instance, the burden of proof is on the Tenant 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 Landlord. The Tenant must also provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Tenant did everything possible to minimize the damage or losses that were incurred.

The Tenants are seeking a 100% rent reduction for March in the amount of \$2,700.00, because of the issue with the flooding, and the bathroom. Generally, I note the following relevant portions of the Act and the Policy Guidelines:

The Residential Tenancy Branch Policy Guideline #22 *Termination of Restriction of a Service or Facility* states the following:

C. RENT REDUCTION

Where it is found there has been a substantial reduction of a service or facility, without an equivalent reduction in rent, an arbitrator may make an order that past or future rent be reduced to compensate the tenant.

If the tenancy agreement doesn't state who is responsible for any added service or facility, not provided by the tenant, after the commencement of the tenancy, and there is a cost involved in obtaining the service or facility, the landlord is responsible for the cost, unless the landlord has obtained the written agreement of the tenant to be responsible for the cost.

Where there is a termination or restriction of a service or facility for quite some time, through no fault of the landlord or tenant, an arbitrator may find there has been a breach of contract and award a reduction in rent.

Where there is a termination or restriction of a service or facility due to the negligence of the landlord, and the tenant suffers damage or loss as a result of the negligence, an arbitrator may also find that the tenant is eligible for compensation for the damage or loss.

I have considered the testimony and evidence that was presented. I find the Tenants' request for a 100% rent reduction for March 2022 is excessive and unreasonable, given the nature and extent of the issue. I note the Tenants only lost the use of one of their bathrooms for the first part of March. The Tenants suggested they lost use of it for weeks, but it appears the dehumidifiers and fans were removed and the minor plumbing repairs were largely completed by March 8, 2022. It is not clear how and when the completion of the repairs was communicated to the Tenants, based on the evidence and testimony before me. The Tenants vaguely referred to emotional distress from dealing with the Landlord. However, they did not elaborate on this matter. Overall, I am

not satisfied that the amount the Tenants are seeking for a rent reduction is reasonable. However, given they lost the use of one of their bathrooms for at least 8 days, I find they ought to be entitled to some amount of compensation; I am satisfied they would have suffered some reduction in the value of their tenancy due to an issue which was likely not their fault.

I note that an arbitrator may award compensation in situations where establishing the value of the damage or loss is not as straightforward:

“Nominal damages” are a minimal award. Nominal damages may be awarded where there has been no significant loss or no significant loss has been proven, but it has been proven that there has been an infraction of a legal right.

I find an nominal award is more appropriate for this matter, and I award \$250.00 for the loss of use of one of the bathrooms for the first part of March 2022.

With respect to the BC Hydro bill the Tenants are seeking to be compensated for, I do not find the Tenants have sufficiently explained why the Landlord ought to be responsible for 100% of their electricity for that billing period. The Tenants provided no explanation as to how many fans were running, and how they arrived at this amount as a reasonable estimate for the electricity usage for the Landlord’s restoration work. I find the Tenants have failed to sufficiently demonstrate the value of their loss on this matter. I dismiss this part of the claim in full.

With respect to the Tenants claim for compensation for water jugs they purchased, I also find the Tenants have failed to sufficiently demonstrate the value of their loss, as there is no receipt provided. I dismiss this item, in full.

Given the Tenants were only partly successful, I award half of the filing fee they paid.

In total, I award the Tenants \$300.00 for all the above monetary matters. The Tenants may deduct \$300.00 from one future rent payment in full satisfaction of this claim.

Conclusion

The Tenants may deduct \$300.00 from one future rent payment.

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: June 02, 2022

Residential Tenancy Branch