



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding FIREHOUSE HOLDINGS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes RP, OLC, MNDCT, FFT

Introduction

On March 14, 2022, the Tenants applied for a Dispute Resolution proceeding seeking a repair Order pursuant to Section 32 of the *Residential Tenancy Act* (the “*Act*”), seeking an Order to comply pursuant to Section 62 of the *Act*, seeking a Monetary Order for compensation pursuant to Section 67 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

Both Tenants attended the hearing, and C.K. attended the hearing as an owner/agent for the Landlord. At the outset of the hearing, I explained to the parties that as the hearing was a teleconference, none of the parties could 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. As well, all parties in attendance provided a solemn affirmation.

K.B. advised that they served the Notice of Hearing and an evidence package to the Landlord by email on March 22, 2022. As well, she stated that additional evidence was served to the Landlord by email on May 14, 2022. C.K. confirmed that these emails were received, and he had no position with respect to the manner with which they were served. Based on this undisputed testimony, I am satisfied that the Landlord was duly served with the Notice of Hearing and evidence packages. As such, I have accepted this evidence and will consider it when rendering this Decision.

C.K. advised that the Landlord's evidence was served to the Tenants by email "approximately two weeks ago." K.B. confirmed that this email was sent on June 22, 2022, and that they received it on June 23, 2022. She did not have any position with respect to the date that this was served, and she confirmed that they had reviewed this evidence and were prepared to respond to it. While this evidence did not appear to be served in accordance with the timeframe requirements of Rule 3.15 of the Rules of Procedure, as the Tenants were prepared to respond to it, I do not find that there was any prejudice to the Tenants. As such, I have accepted this evidence and will consider it when rendering this Decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. 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.

Issue(s) to be Decided

- Are the Tenants entitled to a repair Order?
- Are the Tenants entitled to an Order to comply?
- Are the Tenants entitled to a Monetary Order for compensation?
- Are the Tenants entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on January 1, 2022, and that the tenancy ended when the Tenants gave up vacant possession of the rental unit on April 30, 2022. Rent was established at \$2,300.00 per month and was due on the first day of each month. A security deposit of \$1,150.00 was also paid. A copy of the signed tenancy agreement was provided as documentary evidence.

Given that the tenancy has already ended, I am unable to Order the Landlord to make repairs to the rental unit or Order that the Landlord to comply with the *Act*. As such, the only matter that I can consider in this Application is with respect to the claims for monetary compensation.

K.B. advised that they are seeking compensation in the amount of **\$181.65** because the Landlord informed them at the start of the tenancy that mail could not be received at the rental unit. She stated that a mailbox is part of a basic tenancy and that they were not aware of any mailbox on the property. This amount of compensation requested was the cost of renting a PO box, and they submitted a copy of the receipt to support this position. G.B. stated that every rental unit should have a mailbox, or access to one.

The Landlord advised that the property has one address and that there is one communal mailbox for all the rental units on the property. He testified that the Tenants were made aware of this, and it was suggested to them that they get their own PO box if they wanted more secure mail. He referenced an email dated December 21, 2021, to support this position.

K.B. submitted that the Landlord never offered them access, or a key to the communal mailbox. She stated that she asked the Landlord how to access any mail, and the Landlord responded with the December 21, 2021 email. After several questions attempting to determine if the Tenants ever asked the Landlord for access to the communal mailbox after receiving this December 21, 2021 email, she confirmed that they never did so, and that they simply went out and rented their own PO box instead.

K.B. advised that they are seeking compensation in the amount of **\$150.00** because they discovered mice in the rental unit when they first moved in, and they requested help from the Landlord; however, the Landlord did not provide any assistance. They purchased traps and poison to deal with the mice, and they sealed holes in the rental unit. She stated that the Landlord reimbursed them for these materials. She referenced the documentary submitted to support their position, and she stated that the compensation of \$50.00 per hour for three hours of their time to deal with the mouse issue is comparable to general trade wages. G.B. stated that the Landlord did not offer any assistance after their communication.

The Landlord acknowledged that there were mice in the rental unit prior to this tenancy starting and that he believed the issue was fixed, but he “obviously didn’t get it right.” He stated that he informed the Tenants that he would bring in a pest control company, but

they dealt with the issue themselves. He acknowledged that the Tenants used traps and poison, that they were reimbursed for these expenses, and that it was his belief that this issue was rectified as he did not hear from them about the issue after a January 25, 2022 text exchange.

K.B. advised that they asked for additional help on January 14, 2022 regarding the mouse situation, but the Landlord did not provide any additional assistance after this.

The Tenants also requested compensation in the amounts of **\$6,000.00** and **\$600.00** because of a loss of income; however, they were informed that there are no provisions in the *Act* to compensate for lost wages. As such, these claims have been dismissed in their entirety.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

With respect to the Tenants' claim for damages, Section 67 of the *Act* allows a Monetary Order to be awarded for damage or loss when a party does not comply with the *Act*.

Furthermore, when establishing if monetary compensation is warranted, I find it important to note that Policy Guideline # 16 outlines that when a party is claiming for compensation, "It is up to the party who is claiming compensation to provide evidence to establish that compensation is due", that "the party who suffered the damage or loss can prove the amount of or value of the damage or loss", and that "the value of the damage or loss is established by the evidence provided."

As noted above, the purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. When establishing if monetary compensation is warranted, it is up to the party claiming compensation to provide evidence to establish that compensation is owed. In essence, to determine whether compensation is due, the following four-part test is applied:

- Did the Landlord fail to comply with the *Act*, regulation, or tenancy agreement?

- Did the loss or damage result from this non-compliance?
- Did the Tenants prove the amount of or value of the damage or loss?
- Did the Tenants act reasonably to minimize that damage or loss?

Moreover, when two parties to a dispute provide equally plausible accounts of events or circumstances related to a dispute, the party making the claim has the burden to provide sufficient evidence over and above their testimony to establish their claim. Given the contradictory testimony and positions of the parties, I may also turn to a determination of credibility. I have considered the parties' testimonies, their content and demeanour, as well as whether it is consistent with how a reasonable person would behave under circumstances similar to this tenancy.

With respect to the Tenants' claim for compensation in the amount of \$181.65 for the cost of renting a post office box, while the Tenants claimed that they were never provided with access to the communal mailbox, when reviewing the documentary evidence before me, I do not accept this position. The consistent evidence before me is that the Landlord sent K.B. an email dated December 21, 2021, which stated "Regarding mail. Unfortunately there is only one box available so we have suggested getting a post office box in town for secure mail." Moreover, in obtaining submissions from the parties on this issue, it became clear that the Tenants were aware that there was a communal mailbox for all of the units on the property and that obtaining a PO box was optional if they wanted an alternative method to receive mail. This conclusion was reinforced when it was evident that K.B. was being repeatedly and intentionally evasive about directly answering if they ever asked for access to the communal mailbox after the December 21, 2021 email from the Landlord.

Consequently, I am satisfied that the Tenants were aware that there was one mailbox for all of the residents of the property, and that they never asked the Landlord for access to this, but simply elected to rent a PO box for their own use instead. I find that this claim is an attempt to portray a scenario, that did not exist as described by the Tenants, in an effort to claim for compensation after the fact, and after they chose of their own accord to have a different manner with which to receive their mail. As such, I dismiss this claim in its entirety.

Regarding the Tenants' claims for compensation in the amount of \$150.00 for the cost of their time in dealing with a mouse infestation, the consistent and undisputed evidence before me is that there were mice in the rental unit and that this was not as a result of the Tenants' negligence. I accept that the Tenants brought this issue to the Landlord's

attention, and that they were reimbursed by the Landlord for the cost of materials to deal with pest issue.

However, when reviewing the documentary evidence provided, I find that it is inconsistent with the testimony that the Tenants allege. I note that they claimed that the Landlord did not provide any additional assistance, but the communication from the Tenants seems to indicate that as opposed to directing the Landlord to rectify the issue, the Tenants took steps to rectify the problem themselves. I do acknowledge that the Tenants sent the landlord an email dated January 14, 2022, stating that "We did find more evidence of mice int eh living room too – ugh! We may need your help/more intervention to get on top of this." However, the only correspondence submitted by either party with respect to this is a text message dated January 25, 2022, where the Tenants stated "Hi [Landlord], three mice caught so far!" and the Landlord replied "3 blind mice! I'll call them today and see if it could work in the next day or so." The Tenants' response to this is cut off on the screenshot, so it is not clear what happened after this exchange.

Regardless, this clearly demonstrates that the Landlord did offer assistance on January 25, 2022, contrary to the Tenants' claims. Moreover, the Tenants were reimbursed for the cost of materials incurred. When assessing the totality of the documentary evidence and testimony before me, I accept that there were mice in the rental unit, but it appears as if the Tenants chose to deal with this issue themselves rather than put the onus on the Landlord to rectify it. Moreover, I am satisfied that the Landlord was willing to assist, contrary to the Tenants' submissions. This inconsistency causes me to question the credibility of the Tenants as this appears to be another attempt to advance a portrayal of events that is not entirely consistent with what actually appears to have happened.

While there is no dispute that there were mice in the rental unit and that the Tenants suffered from a loss due to this, based on the reservations I have above, I am not satisfied that the Tenants have sufficiently and reliably established the amount of compensation being claimed for. As such, I find it appropriate to grant the Tenants a monetary award in an amount of **\$75.00**, which is commensurate with what the Tenants have established by their evidence.

As the Tenants were partially successful in this Application, I find that the Tenants are entitled to recover \$50.00 of the \$100.00 filing fee paid for this Application.

Pursuant to Sections 67 and 72 of the *Act*, I grant the Tenants a Monetary Order as follows:

Calculation of Monetary Award Payable by the Landlord to the Tenants

Compensation for mouse infestation	\$75.00
Filing fee	\$50.00
TOTAL MONETARY AWARD	\$125.00

Conclusion

The Tenants are provided with a Monetary Order in the amount of **\$125.00** in the above terms, and 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.

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: July 2, 2022

Residential Tenancy Branch