



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes **MNDCT, RPP**

Introduction

This hearing dealt with an application by the landlord/tenant pursuant to the Residential Tenancy Act (“Act”) for orders as follows:

- for a monetary order for damage or compensation pursuant to section 60 of the Act
- for an order requiring the landlord to return personal property pursuant to section 58 of the Act

Landlord’s agent JM appeared. Tenants DR and MGK appeared along with witnesses GS and CK. All parties were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses.

The hearing was conducted by conference call. The parties were reminded to not record the hearing pursuant to Rule of Procedure 6.11. The parties were affirmed.

The landlord testified that he did not receive the tenants’ evidence package. The tenants’ witness CK stated that he was present when the tenants taped their evidence package to the landlord’s door on December 3, 2022. Based on this testimony I find that the landlord was duly served in accordance with sections 81 and 82 of the Act.

Issue(s) to be Decided

1. Are the tenants entitled to a monetary order for compensation?
2. Are the tenants entitled to the return of their personal property?

Background and Evidence

The tenancy commenced September 21, 2018. Rent was \$1,700.00 per month due on the first day of the month. The tenancy ended October 25, 2022.

The tenants alleged that the landlord damaged their RV on October 25, 2022 by trying to push in the slide out portion of the RV. The tenants provided an estimate to repair the damage in evidence. The tenants stated the repair cost estimate was \$15,679.54. The estimate states the cost to repair is \$13,999.59. A witness for the tenant stated that he had advised the landlord not to try to push in the slide out portion of the RV as it would cause damage.

The tenants alleged that the landlord damaged their hot tub to the extent that it must be replaced. The tenants provided an estimate to replace the hot tub in evidence. The estimated replacement cost of the hot tub is \$4,990.00.

The tenants alleged that the landlord threw their electronic devices, including their TV, laptop and printer in the mud at the new location that the tenants rented for their RV. The damage occurred October 25, 2022 when the landlord moved these items to the tenants' new rental location. They provided an estimate for replacing these items in evidence. The estimated replacement cost is \$2,081.37.

Neither the tenants nor their witnesses observed the landlord causing any of the alleged damage. The tenants stated that the landlord admitted to them that his nephew had caused the damage to the RV.

The landlord's agent denied that the landlord caused any of the damage as alleged by the tenants.

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 tenants to prove their entitlement to a claim for a monetary award.

Damage to the RV

I have no evidence before me that the damage to the RV was caused as a result of the landlord breaching the Act or tenancy agreement.

Hot Tub

I have no evidence before me that the damage to the hot tub was caused by a breach of the Act or tenancy agreement by the landlord.

Electronics

The tenants testified that the electronics were destroyed by the landlord who put the items in the mud at their new rental location. The tenants have not established that any damage that may have been caused stemmed directly from a violation by the landlord of the Act or the tenancy agreement.

As none of the damage was not caused by a breach of the Act or tenancy agreement, I have no jurisdiction over the matter. The tenants may advance their claim for compensation elsewhere if they choose.

Return of Property

The tenants did not specify what if any property was still being held by the landlord that they wished to have returned. Therefore, I dismiss this portion of the tenants' claim without leave to reapply.

Conclusion

The tenants' application for return of their property is dismissed without leave to reapply. I have no jurisdiction to hear the rest of the tenants' claim for compensation.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Tenancy Act*.

Dated: April 05, 2023

Residential Tenancy Branch