



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

This hearing was convened in response to the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

- a monetary order for damage to the rental unit pursuant to section 67;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony and present evidence. No issues were raised with respect to the service of the application and evidence submissions on file.

Issues

Is the landlord entitled to a monetary award for damage to the rental unit?
Is the landlord entitled to recover the filing fee for this application from the tenant?

Background & Evidence

The tenancy began on August 31, 2021 and ended on September 30, 2022. The tenant paid a security deposit of \$1050.00 at the start of the tenancy. The landlord stated she returned to security deposit in full to the tenant at the end of the tenancy as she was under the assumption that she could not make a claim against it.

The landlord is claiming \$1343.67 for the purchase and install of a new kitchen sink. The landlord testified that on September 1, 2022, the tenant messaged her letting her know the sink had broken after she poured hot water down it. The tenant sent her a picture of the sink with a large crack in it. The landlord submits the tenant initially accepted responsibility but later stated the sink was faulty or should be covered under warranty. The landlord submits the sink was not under warranty. The landlord asked the tenant to have it fixed as she was away at the time of the incident but the tenant

refused. The landlord submitted invoices in support of the sink replacement and install charges. The landlord testified the sink was newly installed less than two years ago when she purchased the property.

The tenant testified that she regularly does “canning” of tomatoes and in this incident had let the hot water sit for 45 minutes before pouring it down the drain. She heard a popping sound shortly after pouring the hot water down. The tenant testified that the canning process involves the use of a giant stock pot. The tenants testified that she did not drop anything in the sink. She notified the landlord immediately after it happened and originally assumed she would be responsible as the tenant. The tenant states she did not know the sink was porcelain and that there is nothing in her tenancy agreement saying to not pour boiling water down the sink. The tenant submits the sink should have a lifetime guarantee. She had a plumber come and look at the sink and he said the cause was faulty installment or manufacturer default.

In reply, the landlord submits that the invoice from the plumbing contractor states there was no issue found with the previous install and that the likely cause was something heavy dropping in the sink.

Analysis

Pursuant to section 67 of the *Act*, when a party makes a claim for damage or loss, the burden of proof lies with the applicant to establish the claim on a balance of probabilities. To prove a loss, the applicant must satisfy the following four elements:

1. Proof that the damage or loss exists;
2. Proof that the damage or loss occurred due to the actions or neglect of the other party in violation of the *Act*, *Regulation* or tenancy agreement;
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage; and
4. Proof that the applicant followed section 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage being claimed.

Section 37 of the *Act* requires that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean and undamaged except for reasonable wear and tear.

I find that on a balance of probabilities the damage to the sink was likely caused by the tenant’s accidently dropping a heavy pot she was using on the sink. I make this finding

as it was the tenant's own testimony that she does "canning" regularly and that in this incident she waited 45 minutes before pouring the hot water down the sink. I find if the hot water alone would cause this damage to the sink it would likely have occurred earlier as the this was not the first time the tenant poured hot water down the sink. Further, if the tenant waited 45 minutes before pouring the water down as she testified, I find it unlikely that the water would still have been hot enough to cause this extensive damage on its own. Further, I find the tenant provided insufficient evidence of her argument that a faulty installation caused the damage. The tenant did not provide any official report from a licensed plumber stating the likely cause of the damage. Neither did the tenant submit any formal estimate for replacing the sink. I accept the landlord's invoices as proof of the actual loss. I also find the landlord attempted to mitigate losses by providing the tenant with an opportunity to have the sink replaced herself.

I accept the landlord's claim and award \$1343.67 as claimed.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application for a total monetary award of \$1443.67.

Conclusion

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$1443.67. Should the tenant 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 18, 2023

Residential Tenancy Branch