

Residential Tenancies Tribunal

Application: 2022 No. 1047 NL

Decision 22-1047-00

Jaclyn Casler
Adjudicator

Introduction

1. The hearing was called at 9:03 AM on 23 January 2023 via teleconference.
2. The applicant, [REDACTED], hereinafter referred to as “the tenant”, participated in the hearing. As did the respondent, [REDACTED] as represented by [REDACTED] and hereinafter referred to as “the landlord”.
3. An affidavit of service was provided by the tenant (T#1) confirming that he served the property manager for the rental premises on 02 January 2023 by email and proof of service was provided. The landlord confirmed service.
4. The details of the claim were presented as an originally fixed term rental agreement that started in August 2018 and terminated on 31 August 2022. Monthly rent was originally set at \$1200.00 and a security deposit in the amount of \$900.00 was collected.
5. In a proceeding under the *Residential Tenancies Act*, the applicant has the burden of proof. This means the applicant has the responsibility to prove that the outcome they are requesting should be granted. The standard of proof in these proceedings is referred to as the balance of probabilities which means the applicants have to establish that their account of events is more likely than not to have happened.

Issues before the Tribunal

6. The tenant is seeking compensation for Other in the amount of \$2196.85.

Legislation and Policy

7. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018 (the Act)*.
8. Also relevant and considered in this case is section 10 of the *Act*.

Preliminary Matters

9. The rental premises is a house located at [REDACTED]. The landlord testified she sold the rental premises in September 2022.

Issue 1: Compensation for Other (\$2,196.85)

Tenant's Position

10. The tenant testified that he should be refunded the monies he paid (e.g., \$2,196.85) towards the installation of a fence at the rental premises in spring 2019 (T#2). He testified that he requested the fence be built so that his two young children could be safe while playing outside at the rental premises.
11. The tenant submitted the signed agreement (T#3) with the landlord for construction of the fence, which required him to pay half the costs (e.g., the amount claimed). He testified that these monies should be returned to him because the signed agreement did not speak to what would happen, if the rental premises was sold. The tenant testified that the rental premises was the only one on the street with a fence, and that the value of the fence would have increased the September 2022 sales price. He testified that he was a good tenant, and that he did everything possible to stay long term in the rental premises because he had wanted to raise his daughters there.

Landlord's Position

12. The landlord testified that she did not initially have the funds necessary to build the fence when originally requested by the tenant in 2018. She then decided to have the fence constructed on a cost sharing agreement so long as the tenant signed a subsequent fixed term lease that would expire 31 July 2020. The landlord testified that she did not anticipate having to sell, but that they chose to sell instead of drastically increasing tenants' rent. The landlord disputed the tenant's claim that the fence had a measurable impact on the value of the property. She also testified and provided evidence for having returned the full value of the tenant's security deposit (L#1).

Analysis


13. The landlord and tenant agreed that a fence was installed at the rental premises in 2019 and that the costs of this fence were shared between the parties. Where the tenant argued that he should be reimbursed his portion of the costs for this fence because the rental premises was later sold, the landlord disputed this claim. Upon reviewing the signed agreement for cost sharing of the fence, I find that the tenant signed a statement identifying the landlord as the "sole owner of the fence". I also find that the tenant has no legal grounds for his argument that the landlord's sale of the rental premises should have the effect of crediting the tenant for his contribution to the fence. Yes, landlords and tenants alike are required to uphold and abide by various legal requirements, but providing compensation for freely made tenant improvements to a rental premises during a fixed term tenancy, is not one of them.
14. Consequently, I find that the tenant failed to establish on the balance of probabilities that he is entitled to compensation for the fence. He paid for his share of a fence that did not exist when he first took occupancy of the rental premises, so that his children could play safely within the yard of the rental premises for the remainder of his tenancy. This means that all reasonably expected benefits have already been enjoyed.

Decision

15. The tenant's claim for compensation for Other does not succeed in any amount.

25 January 2023

Date


Jaclyn Casler
Residential Tenancies Tribunal