

Residential Tenancies Tribunal

Applications 2023 No. 0088 NL

Decision 23-0088-00

Jaclyn Casler
Adjudicator

Introduction

1. The hearing was called at 9:04AM on 27 February 2023 via teleconference.
2. The applicants, [REDACTED] and [REDACTED], hereinafter referred to as "tenant1" and "tenant2", participated in the hearing. The respondent, [REDACTED], hereinafter referred to as "the landlord", also participated in the hearing.
3. An affidavit of service was not provided, however, the landlord waived her right to service and stated that she was ready to proceed with the hearing. Tenant1 asked for a postponement because she submitted additional evidence via a link on the morning of the hearing and was told that the office cannot accept such evidence. Because the landlord stated her desire to proceed with the hearing and because the applicants were informed when they applied for dispute resolution of the rules for evidence sharing, I proceeded with the hearing.
4. The details of the claim were presented as a continuation of sorts a month-to-month agreement that was initially struck in September 2021 with the tenants and the former owner of the rental premises located at [REDACTED] [REDACTED]. The landlord became owner of the rental premises in September 2022 and is related to both tenant2 and the former owners. Monthly rent was set at \$500.00 and both sides disputed the security deposit.
5. In a proceeding under the *Residential Tenancies Act, 2018*, 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. In these proceedings the standard of proof 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 tenants are seeking the following:
 - An order for compensation for inconvenience in the amount of \$11,910.00;
 - An order for return of possessions valued at \$66,350.00;
 - An order for payment of utilities in the amount of \$130.00; and
 - An order for payment of other in the amount of \$35.00.

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 are sections 10 and 31 of the *Act*.

Preliminary Matters

9. The landlord posted a Notice of Abandonment on 12 December 2022 and changed the locks a week later. The tenants agreed that they did not pay rent for December 2022.

Issue 1: Compensation for Inconvenience (\$11,910.00)

Tenants' Position

10. The tenants submitted a written ledger outlining a claim for compensation for inconvenience in the amount of \$10,390.00 (T#1). They provided conflicting and inconsistent testimony related to this claim and what led up to their claim. No supporting documents (such as verifiable receipts) were provided related to any of the line items identified.

Landlord's Position

11. The landlord testified that the tenants paid rent for November 2022 and were last in attendance on 02 November 2022. She was then contacted in early December 2022 by a community member who informed her of water under her premises. The landlord then contacted the Landlord Tenant Office and decided to post a notice of abandonment on the premises on 12 December 2022 since rent had not been paid and then tenants were elsewhere. She testified that she was not contacted by the tenants in response to this notice and so she had the locks changed a week later. The landlord's brother photographed all possessions in the premises at that time. The landlord then endeavoured to make contact with the tenants and also provided notice to the police. She testified that he brother attended to the premises one month later so that the tenants could remove their possessions, which they did.

Analysis

12. The applicant in any claim for inconvenience is required to establish on the balance of probabilities that they are entitled to compensation as a result of the landlord's action as per 47(1)(h) of Act. Specific to this dispute, I found the tenants inconsistent and unreliable and the landlord credible. Consequently, I find that the tenants failed to establish their claim.

Decision

13. The tenants' claim for compensation for inconvenience does not succeed in any amount.

Issue 2: Return of Possessions (\$66,350.00)

Tenants' Position

14. The tenants submitted a written ledger outlining a claim for compensation for possessions in the amount of \$66,050.00 (T#2). They provided conflicting and inconsistent testimony related to this claim and what led up to their claim. No supporting documents (such as verifiable receipts) were provided related to any of the line items from this ledger. Tenant1 testified that they have "most" of their possessions and that they contacted the police regarding the others.

Landlord's Position

15. The landlord testified that she was contacted by EasyHome who requested access to the premises to secure items that belonged to them. She testified that she provided access to EasyHome who collected a number of items identified on the tenants' list of possessions. The landlord also testified that she had her brother attend to the premises in mid January 2023 so that the tenants could take their belongings. She testified that the premises have been occupied by a new tenant from 01 February 2023 onward.

Analysis

16. The applicant in a claim for return of possessions is required to establish on the balance of probabilities that they are entitled to compensation and or return of property. Specific to this dispute, I found that both parties agreed that possessions were collected by the tenants in mid January 2023 and that the police were contacted regarding certain other items. Consequently, I find that the tenants failed to establish on the balance of probabilities that they were entitled to any compensation.

Decision

17. The tenants' claim for possessions returned does not succeed in any amount.

Issue 3: Payment of Utilities (\$130.00)

Tenants' Position

18. The tenants submitted an invoice in the amount of \$127.86 with a billing date of 13 January 2023 for utilities charged at the rental premises (T#3). Tenant1 testified that this bill has been paid and agreed their possessions remained in the premises for the period of time covered by the invoice.

Landlord's Position

19. The landlord testified that she was surprised the hydro bill was in the name of tenant2 as she thought it was in the name of tenant1. She stated that she left all possessions in the unit, other than those collected by EasyHome, until they were collected by the tenants in the middle of January 2023.

Analysis

20. Both sides agreed that the tenants' possessions remained in the premises until the middle of January 2023 and that the invoice in question was paid by the tenants. Because the billing period coincided with the tenants' possessions remaining in the rental premises, I find it reasonable that the tenants are responsible for this charge.

Decision

21. The tenants' claim for payment of utilities does not succeed in any amount.

Issue 4: Payment of Other (\$30.00)

Tenants' Position

22. The tenants submitted a policy document for home insurance in the rental premises (T#4). Tenant1 testified that she is claiming compensation for \$30.00 for the cost of insurance paid until the middle of January 2023. She agreed that she paid insurance for the period of time that her belongings remained in the rental premises.

Landlord's Position

23. The landlord did not specifically comment on this part of the claim.

Analysis

24. Both sides agreed that the tenants' possessions remained in the premises until the middle of January 2023. Because the billing period coincided with the tenants' possessions remaining in the rental premises, I find it reasonable that the tenants are responsible for this charge.

Decision

25. The tenants' claim for payment of other does not succeed in any amount.

Summary of Decision

26. The tenants' claim for compensation for inconvenience does not succeed in any amount.
27. The tenants' claim for possessions returned does not succeed in any amount.
28. The tenants' claim for payment of utilities does not succeed in any amount.
29. The tenants' claim for payment of other does not succeed in any amount.

07 March 2023

Date

Jaclyn Casler
Residential Tenancies Tribunal