

Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNDC

Introduction

This is an application by the tenant for compensation or loss under the Act as a claim arising from an injury incurred by the tenant, resulting in lost wages and labour for home aid. The tenant claims the loss occurred due to the landlord's actions.

Both, the tenant and the landlord participated in the conference call hearing and gave solemnly affirmed testimony.

Issue(s) to be Decided

Is the tenant entitled to the monetary amount claimed?

Background and Evidence

The tenant and landlord agree on the following facts:

On December 5, 2008 the landlord ploughed the street giving access to the driveway of the tenant's manufactured home. This left behind a 'crest' of snow defining the division between the street and driveway. Both parties agree that this 'crest' of snow is the responsibility of the tenant to shovel, and on this date it was managed to this end.

The tenant and landlord agree that on the following day the street was again ploughed; however, this is where their agreement on the sequence and details of events stops, The tenant alleges the landlord's work left a three (3) foot high crest of snow blocking the driveway. When the tenant returned home she could not gain access to the driveway with her vehicle and in attempting to cross the crest of snow on foot she injured her back. In addition, the tenant alleges the landlord was seen, by undisclosed

individuals, whom were not available or willing to come forward, to bring in snow from afar and “deliberately” pack it at the start of her driveway creating an icy and hard snow barrier to her home. The tenant testified she found this reprehensible especially in light of her senior years and her inability to be as capable as in past years in a similar situation. The tenant claims that her injury prevented her from working. She claims she was scheduled to work in the month of December 2008, a total of 60 hours. She lost wages in the amount of \$690. The tenant is also claiming \$480 for 20 days of home help at \$20 per day, for a total claim of \$1170.

On the other hand, the landlord strongly refuted the allegation he deliberately tried to inconvenience the tenant by packing snow at her driveway entrance and testified the crest, or pile of snow left behind from the ploughing was less than one (1) foot and ultimately the responsibility fell on the tenant to clear this portion of snow or have it cleared to ensure passage in and out of their driveway. He is sorry the tenant injured herself, and did not come to know of her injury until he received the Notice for Dispute Resolution over one month later.

Analysis

The tenant did not provide sufficient or compelling evidence to demonstrate that the landlord, through his negligence or deliberate conduct , caused her to incur injury and a consequent financial loss. However, the landlord pledged to investigate his property insurance policy to determine if it holds an avenue of compensation for the tenant, such as voluntary payment of medical costs. The tenant pledged to co-operate with the landlord to take advantage of any such benefit.

Conclusion

The tenant’s application is dismissed for lack of evidence, with leave to reapply

Dated February 20, 2009