

Decision

Dispute Codes: MNDC, RPP

Introduction

This hearing dealt with an application from the tenants for a monetary order as compensation for damage or loss under the Act, regulation or tenancy agreement, and an order instructing the landlords to return the tenants' personal property. Both parties participated in the hearing and gave affirmed testimony.

Issues to be decided

- Whether the tenants are entitled to either or both of the above under the Act

Background and Evidence

A previous hearing was held in a dispute between these same parties on October 29, 2009, in response to an application from the landlords. Arising from that hearing an order of possession and a monetary order for unpaid rent were issued in favour of the landlords. Subsequently, the tenants applied for leave for review on the basis that they were unable to attend the original hearing because of circumstances that could not be anticipated and were beyond their control. In the result, a review hearing has been scheduled for 9:30 a.m. on January 12, 2010.

There is no written residential tenancy agreement in place for this month-to-month tenancy which the tenants state began in March 2009. Rent in the amount of \$600.00 was payable in advance on the first day of each month. The tenants claim they paid a security deposit of \$200.00 at the start of tenancy, however, the landlords deny that any amount of security deposit was collected.

On an occasion in October 2009 when the tenants returned to the unit, they found that there had apparently been a break and enter into the unit. The tenants allege that the

landlords provided access to the unit to those who were responsible for damage and theft of many of their personal possessions. The landlords deny this, claiming that the tenants changed the locks and did not provide the landlords with a key. The tenants deny having changed the locks.

The parties present differing accounts of how many truckloads of their personal belongings the tenants had already removed from the unit before the break and enter occurred. For their part, the landlords claim they have none of the tenants' personal belongings in their own possession. In their application the tenants estimate the total value of all missing items to be \$17,164.00.

The tenants state that there is an ongoing police investigation into this matter. Further, the tenants state that police have contacted them and asked that they view some recovered stolen items in order to identify which, if any, may be theirs.

Analysis

In their application the tenants have not included an inventory along with a specific estimated value of each item allegedly stolen, nor pictures of items allegedly stolen, nor a description of the age or condition of any of the items at the time they were allegedly stolen, nor receipts or advertisements for similar items to support a claim for a specific retail or replacement value of any of the items.

The tenants state they have no insurance covering the loss of any of their possessions. Therefore, there is no evidence that the tenants created or maintained a current inventory of possessions kept in the unit, the likes of which would typically be required by an insurance provider. Accordingly, it appears that any inventory created would be a retrospective accounting of possessions.

In the result, I find there is insufficient evidence to support the tenants' application for a monetary order as compensation for damage or loss under the Act, regulation or tenancy agreement. I also find there is insufficient evidence that the landlords have any of the tenants' belongings in their possession.

Conclusion

Pursuant to all of the above, I hereby dismiss the tenants' application without leave to reapply.

DATE: December 23, 2009

Dispute Resolution Officer