



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties and their witnesses the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties and the witnesses.

All testimony was taken under affirmation.

Issues(s) to be Decided

This decision deals with two applications for dispute resolution, one brought by the tenant and one brought by the landlords. Both files were heard together.

Tenant's application

This is a request for an order for compensation for damages and for the return of the full security deposit, for a total of \$5,000.00. The tenant is also requesting that the landlord bear the \$50.00 cost of the filing fee that was paid for her application for dispute resolution.

Landlord's application

The landlord's application is a request for a monetary order totaling \$1015.00 for damages cleaning and loss of rent.

Background and Evidence

The landlord testified that:

- He was notified by the mobile home park owner that his tenant had vacated the rental unit and therefore he went and entered the unit on August 26, 2009.
- He found that the majority of the tenants the longings have been removed however there was still a washer and dryer, a large flat screen TV, a cabinet, a baby buggy, and a table in the rental unit.
- He thought that the tenant may be attempting to skip out without giving notice and therefore on August 26, 2009 he change the locks on the rental unit and would not allow the tenant back in.
- The tenant had paid rent to the end of August 2009 however he felt justified in changing the locks because he thought the tenant was attempting to skip out and not pay September 2009 rent.
- He is still storing the tenant's belongings however they are no longer in the rental unit.
- There was damage to the walls, closet door was broken, trim was ripped & it was very dirty.

The landlord is therefore requesting an order as follows:

Repair costs	\$265.00
Lost rental revenue for September 2009	\$600.00
Filing fee	\$50.00
Total	\$1065.00

The tenant testified that:

- She had decided to move out of the rental unit because she had found a large amount of mould underneath the trailer and therefore since she had found a place to move to she started moving.
- She fully intended to pay September rent and give landlord the proper one month notice even though she wasn't planning to stay there.
- When she returned to the rental unit on August 26, 2009 she found the doors to the rental unit had the locks changed and the landlord refusing to give her access.
- She still had numerous items in the rental unit and the rent was paid to the end of August 2009 and therefore there was no reason for the landlord to have entered her rental unit.
- She was locked out of the rental unit and therefore had no way of doing any cleaning and repairs.

The tenant therefore believes that she should not be liable for the cost of cleaning, repairs, or for September 2009 rent, because it was the landlord who locked her out of the unit and broke the tenancy agreement not her.

Analysis

It is my finding that the landlord is the one who broke the Residential Tenancy Act.

The tenants rent was fully paid to the end of August 2009 and therefore the landlord had no right to either enter the unit, or to change the locks on the rental unit. By his own admission, the landlord knew that there were still numerous items belonging to the tenant in the rental unit, and although he may have believed that the tenant was planning to skip out and not pay September 2009 rent, that did not give him the right to take matters into his own hands and take possession of the unit for which the rent was fully paid.



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The landlord also had no right to seize and hold the tenant's belongings and not returned them to her when requested.

I will not allow any of the landlords claim, because by locking the tenant out he made it impossible for to her to do any cleaning or repairs, and it was him who denied her access to the rental unit and therefore he cannot now claim September 2009 rent.

Conclusion

Landlord's application

The landlord's application is dismissed in full without leave to reapply.

Tenant's application

I have issued an order for the landlord to return all of the tenant's belongings, and I've issued an order for landlord to pay the \$300.00 security deposit to the tenant, plus interest of \$10.61 for a total of \$310.61.

If the landlord fails to return the tenants belongings, the tenant may file a monetary claim against the landlord for the value of those belongings however at this time I will issue no monetary order for those belongings.

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: December 15, 2009.

Dispute Resolution Officer