



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD, MNDC, RP, RR, FF

Introduction

This hearing dealt with the tenant's application under the *Manufactured Home Park Tenancy Act* for a Monetary Order for damage or loss under the Act, regulations or tenancy agreement; for the landlord to make repairs, for authorization to reduce rent and other issues. The landlord did not appear at the hearing. The tenant provided testimony that she served the landlord with notification of this hearing by registered mail and provided a tracking number as evidence. A search of the tracking number showed that the registered mail was refused by the recipient and returned to the tenant. Having been satisfied that the tenant adequately served the landlord and the landlord refused to accept the hearing documents, the hearing proceeded without the landlord present.

As a preliminary issue, I determined that the tenant rented a manufactured home and site and the tenant's application was amended to reflect that this application is being made under the *Residential Tenancy Act* (herein referred to as "the Act").

Shortly after the commencement of the hearing, the tenant requested that her friend speak on her behalf. The tenant's representative provided most of the testimony during the remainder of the hearing except at the end of the hearing the tenant was asked to provide further clarification on what I had heard from the tenant's friend.

Issues(s) to be Decided

1. Has the tenant established an entitlement to monetary compensation from the landlord and if so, the amount?

2. Repairs to the rental unit, if appropriate.
3. Return of the security deposit.

Background and Evidence

The tenant, or her representative, testified as follows. The tenant paid a \$200.00 security deposit July 20, 2009. The tenant paid rent for August and September in the amount of \$400.00 for each month. Shortly after the tenancy commenced the tenant observed black mould in the rental unit. The tenant removed the carpet with permission of the landlord and the landlord failed to make repairs promised to her at the start of the tenancy. After an attempt was made to clean the unit of black mould, the tenant became very ill and ceased occupying the rental unit; however, her belongings were left in the rental unit until October 1, 2009.

The tenant's representative testified that the tenant complained to the landlord about the mould problem on numerous occasions; however, the tenant testified that she just ceased residing in the rental unit and did not inform the landlord's agent about the mould until she returned the keys to the landlord's agent.

Upon enquiry, the tenant stated that most other units in the manufactured home park had mould issues. The representative attributed the mould to the park's shady and damp location. The tenant stated she did not make another attempt to clean the mould as she was told by a friend it was an endless battle and because the tenant had become ill with respiratory illness. The tenant stated that her respiratory illness has improved since leaving the rental unit.

In making this application, the tenant is seeking return of the two months of rent she paid and her security deposit. Upon enquiry, the tenant testified that she verbally told the landlord's agent of her forwarding address and has not yet received her security deposit.

As evidence for the hearing, the tenant provided a copy of the receipt issued for the security deposit, a rent payment made July 28, 2009 and "Shelter Information" signed by the landlord's agent on August 6, 2009 for Employment and Assistance purposes. The tenant did not provide a copy of the rent receipt showing payment of rent for September 2009.

Analysis

As I heard the tenant has vacated the rental unit, I find there is no need to consider ordering repairs to the rental unit.

The tenant supplied evidence that she paid a \$200.00 security deposit and her service address appears, in writing, on the Application for Dispute Resolution; therefore, I order that the landlord return the security deposit to the tenant. I do not award double the security deposit as the tenant did not provide the landlord with her forwarding address in writing prior to making this application.

With respect to the mould and repair issues I make the following findings. A party that makes an application for monetary compensation against another party has the burden to prove their claim. The applicant must satisfy me of the following criteria:

1. That the other party violated the Act, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss;
3. The quantum of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss.

Under the Act, the landlord is required to provide living accommodation that complies with health, safety and building laws. In addition, the rental unit must be suitable for

occupation by a tenant. Under the Act, the tenant must also maintain the rental unit in a manner that complies with reasonable health, cleanliness and sanitary standards.

In this case, I found there to be a lack of evidence to corroborate the submissions of the tenant with respect to outstanding repairs and mould. I was also concerned about the lack of consistent and convincing testimony provided by the tenant and the tenant's representative. However, even if I had found evidence of mould in the rental unit, the tenant did not demonstrate that she had made complaints to the landlord, orally or in writing, about the mould prior to vacating the rental unit. Nor did the tenant make a request for repairs by making an Application for Dispute Resolution prior to vacating the rental unit. Therefore, the tenant did not satisfy me that she made every reasonable attempt to minimize the damage or loss she incurred and I dismiss the tenant's claims for compensation for repairs and mould.

In light of the above findings, I provide the tenant with a Monetary Order for \$200.00 which is the amount of the security deposit. The remainder of the tenant's claims are dismissed without leave to reapply.

Conclusion

The landlord is ordered to return the tenant's security deposit and the tenant has been provided a Monetary Order in the amount of \$200.00 to enforce payment.

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: January 26, 2010.

Dispute Resolution Officer