



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the tenant and her witness and the landlord's agents and witness.

The landlord confirmed that he received a summary of events as evidence prior to the hearing. The tenant failed to provide any documentary evidence to the Residential Tenancy Branch prior to the hearing.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulation or tenancy agreement and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 28, 67, and 72 of the *Act*.

Background and Evidence

The landlord testified that the tenancy began on February 15, 2010 as a month to month tenancy for a monthly rent of \$1,000.00 due on the 1st of the month and a security deposit of \$500.00 was paid. The tenancy ended at the end of October 2010 resulting from the landlord's issuance of a 1 Month Notice to End Tenancy for Cause.

The tenant and her witness testified that the monthly rent amount was \$800.00 due on the 1st of each month and a security deposit of \$400.00 was paid.

The tenant contents that they (the tenant and her two children) were conducting themselves in the ways they always had when a new tenant moved in below them and

started complaining to them and to the property manager about the noises coming from this tenant's unit.

This tenant states that they were not making any other noises than walking on the floor, occasionally dropping things on the floor, during normal evening hours and that the tenants from below them were bothering them, by pounding on the ceiling and complaining to the landlord that these tenants were disturbing the tenants in the unit below.

The landlord testified that they had received complaints from the tenants below this tenant regarding the noise and that the landlord issued a warning notice and when the complaints continued the landlord issued a 1 Month Notice to End Tenancy for Cause based on this tenant disturbing the lower tenant.

The tenant states she did not contest the notice because she wanted to move out any way because the landlord had failed to deal with a mouse problem in the rental unit. The tenant testified that the landlord stated they would not do anything about the mouse until she moved out because she had small children and they could not deal with it with children in the unit. The landlord testified that they offered the tenant traps which she refused.

The tenants are seeking compensation for the loss of quiet enjoyment for the last 1½ months due to the disturbances caused by the tenants below them.

Analysis

To be successful in making a claim for compensation for loss or damage under the *Act*, regulation or tenancy agreement the party making the claim must provide sufficient evidence to establish the following four points:

1. That a loss or damage exists;
2. That the loss or damage results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; and
4. The steps taken to mitigate any loss.

From the testimony provided; in the absence of any documentary evidence; and considering the tenant did not dispute the 1 Month Notice to End Tenancy for Cause and therefore accepted that the tenancy would end in accordance with Section 47 of the *Act* resulting from this tenant disturbing another tenant, I find the tenant has failed to

establish that she suffered any loss and more specifically any loss that results from a violation of the *Act*, regulation or tenancy agreement.

Conclusion

For the reasons note above, I dismiss the tenant's application in its entirety.

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: February 07, 2011.

Residential Tenancy Branch