



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes: *MNDC, CNR*

Introduction,

This hearing dealt with an application by the tenant, pursuant to the *Residential Tenancy Act*. The tenant applied for compensation for the loss under the *Act* and to cancel the notice to end tenancy for non payment of rent.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

On February 01, 2011, a hearing was conducted to resolve a dispute between these two parties. The landlord had applied for an order of possession and a monetary order. Pursuant to the notice to end tenancy for unpaid rent, the landlord was granted an order of possession. Therefore the tenant's application to cancel this notice and the amount of rent owed has already been decided and will not be addressed in this decision. This hearing only dealt with the tenant's application for a monetary order for compensation.

Issues to be decided

Is the tenant entitled to a monetary order for compensation?

Background and Evidence

The tenancy started on December 06, 2010 for a fixed term ending June 30, 2011. The tenant has applied for compensation in the amount of \$24,637.50.

1. Illegal entry by the landlord - \$1,000.00

The tenant stated that the landlord would enter her unit when she was away and several items of her personal belongings went missing. The tenant stated that there was one

incident of illegal entry when she was home and in bed. The tenant stated that this happened on January 20, 2011. The tenant made application on January 18, 2011.

The resident manager stated that the only times that she entered the unit was to conduct a move in inspection with the tenant on December 06, to accompany the locksmith to have the locks changed on December 07 and to install the new refrigerator on December 10. The landlord stated that the tenant was given adequate notice except on December 07 when the tenant was given an hour's notice.

The landlord stated that the practice is to give tenants a 24 hour notice prior to visiting the unit.

2. Trauma - \$5,000.00

The tenant stated that she suffered trauma as a result of her belongings going missing and not having received a set of keys. The tenant agreed that the keys were given to her co tenant. She also stated that after a theft in her home, the resident manager and the landlord's agent went into her backyard and "messed" up the evidence of the theft which included tire marks in the yard. The tenant stated that because of the theft she suffered sleepless nights.

The landlord stated that every rental unit was given two keys to the house, one to the mail box and one to the recycling bin. The landlord gave the keys to the co tenant for the use of the tenant as well. The landlord denied "messaging" up evidence in the back yard.

3. Harassment – \$5,000.00

The tenant stated that the landlord withheld her mail and stole her documents. The tenant did not have any evidence to support her claim.

The resident manager denied having withheld or stolen the tenant's mail and reiterated that the tenant had a key to the mailbox.

4. Rent - \$750.00

5. Damage deposit \$187.50 cash

6. Damage deposit \$187.50 cheque

The tenant stated that she over paid rent in the amount of \$750.00. The rental payments and security deposit were discussed and dealt with during the previous hearing. It was determined that the tenant owed rent and the landlord was granted an order of possession and a monetary order for the amount owed.

7. Food - \$3000.00

The tenant stated that since she overpaid rent, she did not have money for food and is claiming \$3000.00 for food related expenses. The tenant did not have any evidence to support her claim.

8. Lack of heating - \$2,500.00

The tenant stated that she was without heat for about two weeks in December 2010 because the landlord would not pay \$200.00 to connect the gas supply. The tenant stated that the supply was disconnected prior to her moving in and it was the responsibility of the landlord to pay the reconnection fee.

This issue was discussed at length and it was determined that the gas company was in fact asking the tenant to pay a deposit to start services. Upon paying the deposit, the supply was made available for the tenant's use.

9. Terrorism, Break and enter, stolen items, lack of safety and security - \$10,000.00

The tenant stated that she was terrorized by the resident manager and did not feel safe due to the number of break ins. The tenant did not file any evidence to support her claim.

Analysis

As explained to the parties during the hearing, the onus or burden of proof is on the party making a claim to prove the claim. When one party provides evidence of the facts in one way and the other party provides an equally probable explanation of the facts, without other evidence to support the claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails.

The tenant made a claim for \$24,637.50 but did not file any documentary evidence to support her claim. Her verbal testimony was disconnected and she rambled on while relating incidents that she vaguely remembered and could not describe accurately. She contradicted herself several times during her testimony.

The landlord's verbal testimony was clear and related to the undisputed facts of this case. Based on the verbal testimony, I prefer the testimony put forth by the landlord. I find that the tenant's application is without merit and accordingly I dismiss her application.

Conclusion

The tenant's application is dismissed.

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 04, 2011.

Residential Tenancy Branch