

DECISION

Dispute Codes MNDC, FF, O

Introduction

This is an application filed by the Tenant for a monetary order for compensation for loss under the Act and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony.

The Landlord has made a request for an adjournment for medical reasons, but did not elaborate on the cause. The Landlord stated that they were coherent and was being assisted by a friend and would be able to proceed with the hearing. The Landlord's adjournment was dismissed as no causes were cited or explanations given on the Landlord's condition.

As both parties no longer reside at the dispute address, the Tenant's application is amended with the current service address of both parties confirmed during this hearing.

Issue(s) to be Decided

Is the Tenant entitled to a monetary order?

Background and Evidence

Both parties have made detailed reference to the Tenant's evidence package. The Landlord has not submitted any evidence.

The Tenant states that the Landlord initiated an illegal sublet as shown in the Tenant's submitted evidence. The Tenant states that her rent of \$1,000.00 for the upper unit was raised by the property manager to \$1,700.00 for the entire house. The Landlord confirms this in her direct testimony when referring to the Tenant's evidence.

The Tenant is claiming \$1,400.00 (\$700.00 X 2 months) for the loss suffered when she had to enter into a new tenancy agreement with no notice at the higher rent for the entire house. The Tenant is also seeking to claim \$1,000.00 equal to one months rent which would have been received had the Landlord served her with a 2 month notice to end tenancy.

Analysis

As both parties have attended the hearing and have made detailed reference to the Tenant's evidence package, I am satisfied that the Landlord has been properly served.

Based upon the undisputed testimony of the Tenant, I find on a balance of probabilities that the Tenant suffered a loss as of a result of the Landlord's actions. The Tenant has not established a claim for the \$1,400.00 amount being sought, however the Tenant has established a loss. The Tenant was previously paying approximately 70% (\$1,000.00 for the upper unit) of the total monthly rent (\$1,395.00 for the entire house). I find that the Tenant has established a claim for \$1,020.00 (\$510.00 X 2 months). The Tenant obtained a benefit of the entire house as opposed to the original tenancy. I find that the Tenant has failed in her claim for \$1,000.00 as compensation for one months rent in compensation for a notice to end tenancy. This compensation is triggered by the service of a 2 month notice which did not take place. As such, this portion of the Tenant's claim is dismissed. The Tenant is entitled to recovery of the \$50.00 filing fee. I grant the Tenant a monetary order under section 67 for the balance due of \$1,070.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Tenant is granted a monetary order for \$1,070.00.

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: September 02, 2011.

Residential Tenancy Branch