



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC

Introduction

Although the landlord made this application under the *Manufactured Home Park Tenancy Act*, I determined that the tenancy involved rental of a manufactured home located in a manufactured home park. Accordingly, this application falls under the *Residential Tenancy Act* and the application was amended accordingly.

The landlord had applied to retain the security deposit; however, in the details of dispute it was clear the landlord was seeking compensation for damage or loss under the Act, regulations or tenancy agreement; therefore, I amended the application accordingly.

Both parties appeared at the hearing and were provided the opportunity to make relevant submissions, pursuant to the Rules of Procedure, and to respond to the submissions of the other party. I determined that the landlord had not served any evidence upon the tenant or Residential Tenancy Branch. I determined the tenant had not served her evidence upon the landlord. Therefore, this decision was based upon verbal testimony only.

Issue(s) to be Decided

Has the landlord established an entitlement to compensation for damage or loss under the Act, regulations or tenancy agreement?

Background and Evidence

The parties agreed upon the following relevant facts: The tenancy commenced September 2010 and the tenant paid a \$350.00 security deposit. The monthly rent was \$700.00. After the tenancy ended the manufactured home was sold and moved out of the park. By way of previous dispute resolution proceedings, the tenant was awarded return of double the security deposit and authorized to withhold rent for April 2011 due to a 2 Month Notice to End Tenancy.

The landlord initially testified that the tenant vacated the rental unit at the end of May 2011 and then changed her testimony to say June 3, 2011. The tenant testified that she vacated the rental unit April 30, 2011 and submitted that she had a new tenancy agreement effective May 1, 2011.

The landlord testified that the rental unit was clean and freshly painted at the beginning of the tenancy. The landlord testified that at the end of the tenancy the unit was unclean and the carpets were stained with animal urine and feces. The landlord read a letter from the purchaser of the manufactured home dated August 2011 whereby the purchaser described the manufactured home as being unclean and as having stains in the carpet when the purchaser acquired the home.

The landlord submitted that due to the condition of the rental unit the landlord reduced the sale price of the manufactured home by \$1,000.00. In addition, because the tenant received a 2 Month Notice to End Tenancy and stayed in the unit until the effective date, the landlord lost \$2,000.00 because the trailer was not moved out of the park by a certain date. The landlord is seeking compensation totalling \$2,350.00 from the tenant.

The tenant's witness testified that the rental unit was a "disaster" at the beginning of the tenancy and described the rental unit as having a leaky roof, old carpets, possessions still in the unit, and had a non-working furnace. The tenant's witness testified that at the end of the tenancy the rental unit was left clean and submitted that the tenant's new landlord wrote a letter attesting to its clean condition.

Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided in section 7 and 67 of the Act. Accordingly, an applicant must prove the following:

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 as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss.

Upon review of the decision issued September 1, 2011 under file no. 776102 I note that the Dispute Resolution Officer recorded that the tenant vacated the rental unit April 30,

2011 and refers to the 2 Month Notice which was served upon the tenant in February 2011. I find the tenant's testimony during the hearing to be consistent with the previous decision whereas the landlord provided changing testimony during the hearing and testimony inconsistent with the previous decision. Accordingly, I find the tenant vacated the rental unit by April 30, 2011 as she was required to do pursuant to the 2 Month Notice issued by the landlord.

In light of the above, I find no violation of the Act, regulations or tenancy agreement by the tenant with respect to when the tenancy ended and the date the tenant vacated the unit. Furthermore, the landlord did not provide any documentary evidence to substantiate the landlord's loss of \$2,000.00. Therefore, I find the landlord's claim for \$2,000.00 fails to meet the criteria outlined above and this portion of the landlord's claim is dismissed without leave to reapply.

With respect to the condition of a rental unit, I find the disputed evidence insufficient to conclude the tenant left the unit unclean and was responsible for damaging the unit. Nor do I find sufficient evidence that the landlord suffered a financial loss due to the condition of the rental unit. Therefore, I dismiss the landlord's \$350.00 claim for cleaning and damage without leave to reapply.

Conclusion

The landlord's claims against the tenant have been dismissed without leave to reapply.

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: October 18, 2011.

Residential Tenancy Branch