



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing dealt with the tenant's application pursuant to section 67 of the *Residential Tenancy Act* (the *Act*) for a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement. The tenant testified that she sent both landlords a copy of her dispute resolution hearing package by registered mail on October 27, 2011. She provided Canada Post Tracking Numbers to confirm this mailing. She testified that she sent these packages to the landlords at the last address she received from them when she vacated her rental unit in September 2010. She said that Canada Post has not returned either of these hearing packages to her, so she assumed that the packages had been delivered. She said that she had not checked with Canada Post to obtain information regarding the delivery of these packages.

In accordance with section 90 of the *Act*, I am satisfied that the landlords were deemed served with the tenant's hearing packages on November 1, 2011, five days after they were mailed.

Issues(s) to be Decided

Is the tenant entitled to a monetary Order for damage or loss arising out of her tenancy?

Background and Evidence

The tenant testified that her periodic tenancy commenced on or about August 1, 2003. Monthly rent was set at \$625.00, payable on the first of each month. She testified that the landlord continues to hold her \$312.50 security deposit paid on or about August 1, 2003.

The tenant testified that she vacated the rental unit on September 1, 2011, on the basis of a verbal end to this tenancy. At the hearing, the tenant gave oral testimony that she owed the landlord one month's rent of \$625.00 at the end of her tenancy. This testimony varied with her written evidence which stated that she owes the landlord \$1,250.00. At another point in her written evidence, she stated that she owed the landlord \$3,000.00.

The tenant's application for a monetary Order of \$4,000.00 included the following items identified in the Monetary Order Worksheet she completed and entered into written evidence in support of her application:

Item	Amount
Antique Coffee Table	\$3,000.00
7 year old Bedside Table	200.00
4 year old Stereo	600.00
8 Very Large Plants from Walmart	200.00
Total Monetary Award Requested	\$4,000.00

She entered oral and written evidence that the landlords' son had damaged most of the above items.

In support of her application, the tenant provided a number of handwritten notes, most of which were written on 4 inch by 3 inch memo pad paper. She also entered written evidence that during a conversation at 3:07 p.m. on November 2, 2010, the female landlord had accepted "responsibility" for returning the tenant's painting and stereo and for reimbursement of the tenant's coffee table. She also entered into written evidence one short letter dated July 25, 2011 from an RW, who attested to witnessing that some of the tenant's belongings were damaged, most prominently her coffee table.

The tenant did not enter into written evidence any receipts, invoices, written estimates, photographs or other information regarding the items identified in her application for a monetary Order.

The tenant's advocate asked that the tenant's written evidence and oral testimony be accepted as the landlord had chosen to not attend the hearing nor dispute her claim for compensation and the best evidence before me was that of the tenant.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, a Dispute Resolution Officer may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

Although the tenant explained that she had to end this tenancy on relatively short notice due to circumstances that had no bearing on her application, I find little in the tenant's application or the written evidence she provided that would entitle to her a monetary Order. I find that she did not provide adequate explanations as to why she could not provide estimates, receipts or invoices for replacement of the missing items, nor even any photographs of the items damaged or missing. Other than one short letter from an individual who did not attend at the hearing, there is nothing of substance to her application to demonstrate that she possessed any of the items identified in her claim for a monetary Order. She also said that no written tenancy agreement was created for this tenancy and provided contradictory evidence regarding the amount that she still owed as a result of this tenancy. She was initially uncertain as to when she commenced her tenancy, whether this was a month-to-month or a fixed term tenancy, and even the year when she ended her tenancy.

I find that the tenant's application falls far short of meeting the burden of proving the existence of the damage or loss and that any damage or loss that may have arisen stemmed from the landlord's actions. I find that the tenant clearly failed to provide adequate evidence to verify any actual monetary amount of her loss or damage arising from this tenancy.

The burden of proof in a monetary claim rests with the applicant. I dismiss the tenant's claim because I find that the applicant has provided insufficient evidence regarding any loss or damage that she may have experienced as a result of this tenancy. She has not met the burden of proving her monetary claim.

Conclusion

I dismiss the tenant's application for a monetary Order 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: January 05, 2012

Residential Tenancy Branch