



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, CNL, MNDC, RP, RR

Introduction

A substantial amount of documentary evidence, photo evidence, physical evidence, and written arguments has been submitted prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the applicant the opportunity to testify at the hearing.

The applicant testified that the respondent(s) were served with notice of the hearing by registered mail that was mailed on January 30, 2012, however the respondent(s) did not join the conference call that was set up for the hearing.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is a request to cancel a Notice to End Tenancy that was given for landlord use, a request for a monetary order for \$1700.00, a request for an order to make repairs, a request for an order to allow the tenant to reduced rent or repairs, and a request for recovery of the \$50.00 filing fee.

Background and Evidence

The applicant testified that:

- She is no longer requesting an order cancelling a Notice to End Tenancy, or a repair order as she has vacated the rental unit.
- She is however requesting a monetary order as follows because she believes she was forced to move due to unhealthy conditions caused by mould in the rental unit:

Return of security deposit	\$440.00
Cost of prepaid February 2011 city utilities	\$95.00
Cost of ½ January 2011 city utilities	\$47.50
Cost of prepaid February 2011 Terasen gas utility	\$90.00
Cost of ½ January 2011 Terasen gas utility	\$45.00
Return of ½ January 2011 rent	\$462.50
Mail costs	\$21.44
Further Mail costs	\$21.44
Further Mail costs	\$40.82
Canada Post address change	\$50.00
Filing fee	\$50.00
Total	\$1363.70

Analysis

It is my decision that I will not allow any of the applicants claim.

The tenant testified that she vacated the rental unit on January 16, 2012 and provided the landlord with a forwarding address in writing that was sent by registered mail on February 1, 2012. That forwarding address is therefore considered served five days later on February 6, 2012. Under the Residential Tenancy Act the landlord has 15 days from the date he receives a forwarding address in writing to return the security deposit or file a claim against it and therefore no action is required by the landlord until February 21, 2011. Therefore since today is only February 20, 2011 I will not order the return of the security deposit. The claim for the security deposit is dismissed with leave to reapply once the 15 day time limit has expired.

The tenant is also claiming that she had to move out of the rental unit for health reasons because of a mould problem in the rental unit; however it is my decision that she has not met the burden of proving that mould in the rental unit was causing health problems.

The tenant has supplied photos and physical evidence to support her claim that mould in the rental unit was causing health concerns, and has also provided a Doctor's report, however all the information provided by the applicant is inconclusive. The doctor's report does not state that the patient's concerns are caused by mould spores.

Further although the landlord did not participate in today's hearing, the landlord did provide the results of lab tests done on air and surface samples that were taken shortly after the tenant vacated and those tests state that the air sample taken in the room in dispute did not detect the presence of indoor mould growth, and although the surface sample did detect some mould growth it was in the low to medium range and as stated above the applicant has provided no evidence to show that that mould growth was the cause of their health concerns.

I therefore deny the applicants claim for the return of 1/2 her rent for the month of January 2012.

Further since the utilities at the rental property were in the applicant's own name it was her responsibility to suspend utilities when she vacated and if she failed to do so it is not the landlords' responsibility to reimburse the tenant for any prepaid utilities.

Conclusion

The applicants claim for return of the security deposit is dismissed with leave to reapply, and the remainder of the claim is 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: February 20, 2012.

Residential Tenancy Branch