

DECISION

Dispute Codes RP, LRE, FF

Introduction

This is an application filed by the Tenant for an order for repairs to the unit, site or property, suspend or set conditions on the Landlord's right to enter the rental unit and recovery of the filing fee. Although not included in the formal application, the Tenant's details of disputes include a monetary claim equal to one months rent.

Both parties attended the hearing by conference call and gave testimony. The Landlord states that Tenant's notice of hearing and evidence was received. The Tenant states that no evidence was received from the Landlord. The Landlord states that the evidence package was sent to the rental address and not to the Tenant's new address. As such, I find that the Landlord's evidence could be prejudicial to the Tenant and cannot be considered. The Landlord relied on direct testimony only. The Tenant relies on direct testimony and photographs submitted. Both parties agreed that the Tenancy ended on January 31, 2012.

I find that as the Tenancy was ended on January 31, 2012 by the Tenants that there is no longer a need for an order for repairs or to suspend or set conditions on the Landlord's right to enter the rental unit. Those portions of the application are dismissed.

Issue(s) to be Decided

Is the Tenant entitled to a monetary order equal to 1 months rent because of living in an unsafe environment with black mold?

Background and Evidence

Both parties agreed that this Tenancy began on August 1, 2011 on a fixed term tenancy ending on January 31, 2012. Both parties agreed that the Tenancy ended on January 31, 2012. The monthly rent was \$650.00.

The Tenants seek the recovery of \$650.00 equal to one months rent because of black mold issues at the Tenancy. The Tenant states that there was black mold in the rental causing them health concerns. The Landlord disputes this by stating that there was mold, but that it was not that of the black mold variety that could cause health issues.

Both parties agreed that upon being notified that the Landlord provided a dehumidifier, cleaning supplies and an air purifier. The

Analysis

As explained to the parties at the hearing the onus or burden of proof is on the party making the claim, in this case the Tenants are responsible as they have made an application. 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 their claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails. I find on a balance of probabilities that mold did exist, but not that of black mold. The Tenants photographs depict mold, but have failed to provide any supporting evidence that there was a health concern. I also find that the Tenants failed to show a loss equal to that of one months rent or any amount. As such I dismiss the Tenant's application for a monetary order.

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 06, 2012.

Residential Tenancy Branch