



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing was convened in response to an application filed by the tenant seeking a monetary Order for compensation for damage or loss and recovery of the filing fee paid for this application.

Both parties appeared and gave evidence under oath.

Issue(s) to be Decided

Has the tenant met the burden of proving she is entitled to the Orders sought?

Background and Evidence

This tenancy began on September 1, 2010 and ended on October 31, 2011. On January 3, 2012 the landlord was granted an Order allowing the landlords to retain the security deposit in the sum of \$550.00 and a monetary Order in the sum of \$1,293.50 for unpaid rent, repairs and cleaning.

The tenant has submitted the move-in inspection report which states "...basmt. dry-walled within fare amount of time..." (*reproduced as written*). The tenant says this is proof of the landlord's agreement to finish the basement and that this was never done. The tenant now makes application seeking \$250.00 per month x 14 months for a total sum of \$3,500.00 for loss of the use of the basement.

At first the tenant testified that this sum is sought for lost wages; then she said it was for loss of rental income she could have earned had the basement been finished. Then she said she calculated this sum based on the amount of rent paid for rental units without basements and she believes she paid \$250.00 too much for this unit as the basement was not available for use.

The landlord testified that the tenant paid \$1,100.00 per month which the landlord said already included a reduction in rent from the previous rental amount of \$1,200.00 per

month. The landlord says the tenant was aware that her mother had passed away and that she planned to finish the basement when she received funds from the estate. Further, the landlord submits that the basement was dry-walled and the only task remaining was to complete the ceilings. Further that the tenant agreed to a delay in completing the dry-wall in exchange for being allowed to have a second dog in the home. The landlord says that the basement is 1,200 square feet and it was “usable” even without the ceilings being completed. The landlord says if the tenant did not like the situation she had the right to move. The landlord says this claim is in retaliation for the landlord being successful in the previous claim for which the landlord was awarded a monetary Order which the tenant has not yet paid.

Analysis

The tenant bears the burden of proving this claim. She testified that she suffered a loss because, over a 14 month period, the basement was not completed as agreed. The tenant has produced insufficient evidence that she complained about the matter during the course of her tenancy.

The landlord states that the basement was completed except the ceiling and that the area was useable. Further that the tenant agreed to the delay in completing the ceiling in exchange for being allowed to keep a second dog.

Because of the lack of evidence that the tenant complained of the matter during the course of the tenancy, I find it is reasonable and probable that the landlord’s version of events is more accurate. Further, I find that it is also reasonable and probable that the only reason the tenant has brought this claim now is by way of an attempt to offset the sum she currently owes to the landlords.

Conclusion

The tenant's claim 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: March 15, 2012.

Residential Tenancy Branch