



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution, seeking a monetary order for losses or compensation under the Act or tenancy agreement.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure, however, I refer to only the relevant facts and issues in this decision.

Preliminary Matter

The Landlord had included in evidence a copy of a 10 day Notice to End Tenancy issued to the Tenant prior to the hearing. At the outset of the hearing the parties agreed that the 10 day Notice to End Tenancy was no longer an issue, as the Tenant had paid the outstanding rent.

I also note that both parties included evidence regarding other issues at the rental unit, however, these matters were not included in the Application and therefore, could not be addressed at this hearing.

Issue(s) to be Decided

Is the Tenant entitled to monetary compensation from the Landlord?

Background and Evidence

This tenancy began on March 5, 2012, with the parties entering into a written tenancy agreement. The rent established was \$550.00 per month.

The Tenant paid all the rent for March, and is claiming for an overpayment in rent for the days she was not in the rental unit.

The Tenant is also claiming for the amount of the loss she suffered in groceries when the refrigerator supplied by the Landlord ceased to work.

The Tenant claims she was given two different refrigerators by the Landlord and neither of them worked very well. She also alleges these fridges were dirty when she received them.

The Landlord testified that they have supplied the Tenant with two different fridges that were virtually brand new. He testified these are apartment sized fridges and most of the units in the rental property building are being supplied these. The Landlord asserted there was nothing wrong with the fridges.

Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find as follows.

In a claim for damage or loss under the Act or tenancy agreement, the Applicant making the claim, here the Tenant, must provide evidence sufficient to prove:

1. That the damage or loss exists;
2. That the damage or loss occurred due to the action or neglect of the respondent in breach of the Act or tenancy agreement;
3. Verification that the amount claimed for the damage or loss is the actual amount required for compensation; and
4. That the Applicant mitigated, or minimized, the loss or damage in accordance with section 7 of the Act.

I find that the Tenant has established that she paid all the rent due for March of 2012, however, she did not have possession of the rental unit for the entire month. I find the Tenant overpaid rent for a total of four days. I find the Tenant is entitled to the return of **\$70.96** for this overpayment of rent.

I order that the Tenant may deduct **\$70.96** from one month of rent in compensation for her loss.

I dismiss the claim for the cost of groceries, as I find the Tenant had insufficient evidence to verify the actual amount required for compensation, as required in part 3 of the test for damages.

I also caution the Landlord that under the Act and tenancy agreement here, he is required to provide a fully functioning refrigerator to the Tenant. Failure to do so may result in the Tenant bringing another Application.

This decision is final and binding, except as otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: August 08, 2012.

Residential Tenancy Branch