



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing was convened as a result of the tenants' application for dispute resolution under the *Residential Tenancy Act* (the "Act") for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement.

The tenants and the landlord appeared at the teleconference hearing and gave affirmed testimony. During the hearing both parties were given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

Although the tenants could not recall the date they served the landlord, the landlord did affirm that he was served with the application of the tenants. I find the landlord was served in accordance with the *Act*.

Preliminary and Procedural Matters

During the hearing the landlord provided the correct spelling of his first name which has been amended from the application and is in the style of cause for this Decision.

The evidence package of the tenants was not delivered to the Residential Tenancy Branch pursuant to the Rules of Procedure. As a result, the 4 page evidence package of the tenants was excluded from the hearing and not considered in this Decision. I note that even if the evidence package had been delivered to the Residential Tenancy Branch pursuant to the Rules of Procedure, the 3 photocopied photos in the evidence package were not discernable, nearly entirely black in color, and would have been afforded no weight in this Decision.

Issue(s) to be Decided

- Should the tenant be granted a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Background and Evidence

The parties agreed that the tenants vacated the rental unit on March 15, 2012. During the tenancy, the monthly rent was \$750.00.

The tenants claim is for \$2,000.00; however, a detailed calculation of the amount was not provided in the dispute details. The dispute details submitted by the tenants allege that the landlord neglected to take any action to repair flood damages which led to a pest infestation. The tenants state in their application that the date of the flood was January 20, 2012 and that the tenancy ended on March 15, 2012. The tenants' application states they are requesting compensation of two month's rent, plus damages and moving expenses.

Both parties agree that on January 20, 2012, a pipe burst in the home and water leaked into the laundry area located outside of the rental unit. The water soaked the carpet in the laundry area.

The tenants stated they advised the landlord of the water leak. The landlord stated that he arrived within one or two hours and ensured the water was shut off. The landlord stated he called a plumber who arrived the next morning and fixed the pipe.

The tenants stated that they complained to the landlord regarding the wet carpet in the laundry area and water inside their rental unit. The landlord testified that he called in a water extraction contractor to remove the water from the laundry area; however, the landlord did not see any water in the rental unit.

The tenants stated that they were authorized to remove the carpet in the laundry area and were compensated by the landlord by reducing February 2012 rent by \$100.00. The tenants testified that they asked the landlord to install a new carpet in the laundry area. The landlord disputed this testimony by stating that they did not ask for new carpet and that carpet did not belong in the laundry area, and had been installed by the prior owner before he purchased the home in February 2011.

The landlord stated that tenants advised him on March 1, 2012 that they would be vacating the rental unit and paid \$375.00 of the \$750.00 rent. The landlord also stated that they would not agree to him showing the rental unit to prospective tenants.

On March 3, 2012, the tenants stated that they discovered silverfish in the rental unit due to what they allege was residual water from the repaired water leak on January 20,

2012. On March 4, 2012, the landlord testified that he offered to call a pest control contractor who made an appointment to spray the rental unit on March 6, 2012.

The tenants stated that they originally agreed to permit the pest control contractor in to spray their unit, but changed their mind because the female tenant was pregnant. The tenants stated that they reconsidered the possible health impacts of spraying for pests within the rental unit, and advised that they did not want to have the pest control contractor into the rental unit and denied entry.

Both parties agree that on March 15, 2012, the tenants vacated the rental unit. On May 7, 2012, the tenants applied for dispute resolution seeking a monetary order for \$2,000.00 consisting of two month's rent, plus damages and moving expenses. The tenants were asked whether they had any receipts to support their claim for moving expenses. The tenants stated they did not have any receipts to support their claim for moving expenses.

Analysis

Based on details of the application and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

Claim for damages and moving expenses - The tenants did not provide a monetary worksheet describing in detail the damages claimed. The tenants also did not submit any receipts for moving expenses. Therefore, I **dismiss** the tenant's claim for damages and moving expenses due to insufficient evidence.

Claim for 2 month's rent – As monthly rent was \$750.00 during the tenancy, this portion of the claim totals \$1,500.00. The tenants claimed that they were seeking compensation 2 month's rent due to the water leak which occurred on January 20, 2012 until they vacated the rental unit on March 15, 2012. After the water leak occurred on January 20, 2012, the landlord contacted a plumber who fixed the water leak. The landlord also brought in a contractor to extract the water from the laundry area carpet. The tenants were already compensated \$100.00 by the landlord to remove the carpet which both parties confirmed.

The tenants' testimony regarding water inside the rental unit was disputed by the landlord. Regarding the alleged silverfish pest infestation, the landlord offered to bring in a pest control contractor to spray the unit, however, the tenants denied access to the contractor and moved out nine days later on March 15, 2012. Section 7 of the Act, requires that when a claim for compensation for damage or loss, the person submitting

the claim must do whatever is reasonable to minimize the damage or loss. I find the tenants did not minimize their loss when they denied the entry of the pest control contractor. The tenants had the choice to have their rental unit sprayed and chose not to for health reasons. Accordingly, I **dismiss** the tenant's claim for 2 month's rent as they did not mitigate their losses and did not provide sufficient evidence that they suffered a loss equivalent to 2 month's rent.

Conclusion

I **dismiss** the application of the tenants due to insufficient evidence and because they failed to mitigate their losses pursuant to section 7 of the *Act*.

This decision is final and binding on the parties, unless 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 *Residential Tenancy Act*.

Dated: July 09, 2012

Residential Tenancy Branch