



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for compensation for damage to the unit, site or property, for unpaid rent or utilities, to recover the filing fee for this proceeding and to retain the security deposit and pet deposit as partial payment of these claims.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the “hearing package”) by registered mail on October 22, 2012. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord’s hearing package as required by s. 89 of the Act and the hearing proceeded with all parties present.

Issues(s) to be Decided

1. Is there damage to the unit, site or property and if so how much?
2. Are the Landlords entitled to compensation for damage and if so how much?
3. Is there unpaid rent or utilities and if so how much?
4. Are the Landlords entitled to compensation for unpaid rent or utilities and if so how much?
5. Are the Landlords entitled to retain the security deposit?

Background and Evidence

This tenancy started on April 1, 2007 with the previous owner of the rental unit and continued with the Landlord when they purchased the property on January 20, 2011. A tenancy agreement was completed for a fixed term of one year on January 20, 2011 and then the tenancy renewed on a month to month basis in February, 2012. Rent was \$1,200.00 plus utilities per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$550.00 in April, 2007 and a pet deposit of \$600.00 in September, 2011. This tenancy ended on October 15, 2012. A move in condition report was completed on January 20, 2011 and a move out condition inspection was completed on October 17, 2012.

The Landlord said they applied for unpaid rent in a previously application by a Direct Request application to the Residential Tenancy Branch and were successful in receiving a monetary order for the unpaid rent of \$1,200.00 and an Order of Possession.

The Landlord continued to say this application is for unpaid Utilities, which the Tenant has now paid and for damages to the rental unit. The Landlord continued to say that because of a flood in her house she was unable to get her evidence package in to the Residential Tenancy Branch until Friday, January 18, 2013. As a result the evidence package was late and the Arbitrator indicated the evidence package was not included in the Arbitrator's hearing package. The Arbitrator said that in the absence of any evidence to support the Landlord's damage claims the application will not be successful. The Landlord said she understood that with no evidence available to the Arbitrator she is unable to establish her damage claim.

The Tenant said she understood that the situation.

Analysis

For a monetary claim for damage of loss to be successful an applicant must prove a loss actually exists, prove the loss happened solely because of the actions of the respondent in violation to the Act, the applicant must verify the loss with receipts and the applicant must show how they mitigated or minimized the loss.

I find the Landlord has not established grounds to be successful in their application due to lack of evidence. As the Landlord's evidence package was submitted late by the Landlord it was not available to the Arbitrator, consequently there was nothing to corroborate the Landlord's claims. I dismiss the Landlord's application without leave to reapply.

As well, as the Landlord was not successful in this matter I dismiss his application to recover the filing fee of \$50.00 from the Tenant.

Conclusion

I find the Landlord's application 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: January 23, 2013

Residential Tenancy Branch

