



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order for money owed or compensation for damage or loss and for recovery of the filing fee.

The parties appeared, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

At the outset of the hearing, each party confirmed that they had received the other party's evidence.

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 evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the tenant entitled to a monetary order and to recover the filing fee?

Background and Evidence

The written evidence shows that this tenancy started on March 1, 2012, is ending on February 28, 2013, according to the tenant, monthly rent is \$1450.00, and the tenant paid a security deposit and a pet damage deposit of \$725.00 each.

The tenant submitted evidence that her monetary claim was in the amount of \$1481.28, for 2 crib and toddler mattress covers and leg traps, a service call, plastic bags, and loss of use and quiet enjoyment of the rental unit.

The tenant then stated that all the losses mentioned above were her daughter's losses and not hers, the tenant.

The tenant said that her daughter was listed as an occupant and was not a tenant. Additionally, the tenant confirmed that she did not suffer a loss of use or quiet enjoyment for her portion of the rental unit.

I then explained to the tenant that as the applicant, a request for compensation for loss must be that of the applicant, not an occupant.

The tenant acknowledged that she understood and then exited the conference prior to any further remarks from me or concluding the telephone conference call hearing myself.

I also note that the landlord then asked a question of me, more particularly the landlord asked if the tenant could bring further action against her, at which point I responded by saying that the conference would end in light of the tenant's departure, without answering such question.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act, pursuant to sections 7 and 67, or tenancy agreement, the claiming party, the tenant in this case, has to prove, with a balance of probabilities, four different elements:

First, proof that the damage or loss exists, **second**, that the damage or loss occurred due to the actions or neglect of the respondent in violation of the Act or agreement, **third**, verification of the actual loss or damage claimed and **fourth**, proof that the party took reasonable measures to mitigate their loss.

Where the claiming party has not met each of the four elements, the burden of proof has not been met and the claim fails.

The tenant said near the outset of the hearing that she has suffered no loss, that any loss was that of an occupant.

Due to the tenant's affirmation that she has not suffered a financial loss, I therefore find the tenant has not met the first step of her burden of proof. As the tenant has not met her burden of proof, I therefore dismiss her application for dispute resolution, without leave to reapply.

Conclusion

The tenant's application for a monetary order 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* and is being mailed to both the applicant and the respondent.

Dated: February 26, 2013

Residential Tenancy Branch

