



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This is an application filed by the Tenant for a monetary order for money owed or compensation for damage or loss.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the submitted documentary evidence, I am satisfied that both parties have been properly served.

Issue(s) to be Decided

Is the Tenant entitled to a monetary order?

Background and Evidence

The Tenant seeks a monetary order for \$2,613.66. The Tenant states that this is for recovery of 40% of the combined Fortis BC and BC Hydro consumption bills from March 2010 to August 2012. Both parties agreed that there was only 1 meter for the rental property. The Tenant states that she gave verbal notice of this to the Landlord shortly after she moved in during March of 2010. The Landlord disputes this stating that no issues were brought up until the Tenant was evicted. Both parties confirmed that there is a signed tenancy agreement, but neither party has submitted it as documentary evidence. The Landlord claims that the tenancy agreement states that the Tenant is responsible for the utilities of the entire rental building. The Tenant disputes this.

Analysis

When a party makes a claim for damage or loss the burden of proof lies with the applicant to establish their claim. To prove a loss the applicant must satisfy the following four elements:

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the other party in violation of the Act, Regulation or tenancy agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

The Tenant relies on copies of a BC Fortis and BC Hydro usage history statements. The Tenant has alleged that the Landlord should be held responsible for the overpayment of utilities. The Landlord disputes this. The Tenant has failed to provide sufficient evidence to satisfy me of the monetary claim. I find on a balance of probabilities that the Tenant has failed in her claim. The Tenant's Application is dismissed.

Conclusion

The Tenant's Application 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 19, 2013

Residential Tenancy Branch

