



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 438140 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL, FF, MNSD

Introduction

This hearing dealt with an application by the tenant seeking an order to have her security deposit returned and to have a Two Month Notice to End Tenancy for Landlords Use of Property set aside. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Is the tenant entitled to any of the above under the Act, the regulation or the tenancy agreement?

Background and Evidence

The tenancy began on or about February 1, 2012 and ended on May 31, 2013. Rent in the amount of \$1260.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$630.00.

The tenant gave the following testimony:

The tenant stated that she and the other tenant have moved out of the unit. The tenant that participated in this hearing moved out on April 30, 2013 and her roommate moved out May 31, 2013. The tenant stated that she had received the return of her security deposit. The tenant stated that she is seeking \$2000.00 for harassment and moving costs. The tenant stated that she received numerous text messages and calls about

when she would be moving out from the landlord. The tenant stated that she was under a lot of stress at that time and suffered from depression, anxiety and insomnia. The tenant feels that “things weren’t done right” and that she’s entitled to compensation.

The landlord gave the following testimony:

The named party in this matter delivered a child a day prior to this hearing. The landlord stated that is the reason the tenants were given the two month notice to vacate. The director that appeared as agent for this hearing is the mother of the named party and plans to live in the same house to assist her daughter with her new child. The landlord stated that they abided by the law and gave the tenants the proper notice and compensation as required by the Act. The landlord stated that she disputes the allegation of harassment and that only one inquiry was ever made as to the tenants’ plans for moving.

Analysis

The tenant is the applicant in this matter. The tenant applied to have her deposit returned and to have the notice set aside. The tenant decided to move out and has already been given her deposit back. The tenant is now seeking compensation for moving costs and harassment. Although the tenant did not apply for these items all parties consented to have them heard.

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 did not submit any receipts or other documentation to support her claim for moving costs and as a result I dismiss the claim for moving expenses.

As for the allegation of harassment the tenant has not been able to satisfy me that she was harassed. The tenant submitted a copy of a text message for this hearing. I do not find this text message harassing or threatening in any way, in addition the authenticity and validity of that text is questionable.

Based on the lack of evidence and the lack of supporting documentation I dismiss the tenant's application in its entirety.

Conclusion

The tenant's application is dismissed in its entirety 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: June 27, 2013

Residential Tenancy Branch