



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC OLC O

Introduction

This hearing dealt with an Application for Dispute Resolution filed on August 16, 2013, by the Tenant to obtain a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement; to obtain an Order to have the Landlord comply with the Act, regulation or tenancy agreement; and for other reasons.

The Landlord and the Tenant's Advocate appeared at the teleconference hearing, acknowledged receipt of evidence submitted by the Tenant and gave affirmed testimony. At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however, each declined and acknowledged that they understood how the conference would proceed.

During the hearing each party was given the opportunity to provide their evidence orally, respond to each other's testimony, and to provide closing remarks. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

- 1) Has the Tenant proven entitlement to a Monetary Order?

Background and Evidence

The Advocate affirmed that she was expecting the Tenant to appear at this proceeding today; however, she did not attend at her office. The Advocate said she has not seen or heard from the Tenant in several weeks. She stated that she advised the Tenant to apply for dispute resolution when it appeared that the Landlord was attempting to evict her in order to sell his house. To her knowledge the Tenant has not been evicted and she is still residing in the rental unit.

The Landlord affirmed that he is no longer the Tenant's landlord because he sold his house effective October 10, 2013. He stated that he entered into an agreement with the new owner to be their tenant so he is still residing in the basement suite but as a tenant

and not as owner of the house. He testified that he has never served the Tenant a 2 Month Notice to end tenancy.

In closing, the Advocate stated that the Tenant was relying on written documents in which the Landlord allegedly agreed to pay the Tenant money if she moved out.

Analysis

A party who makes an application for monetary compensation against another party has the burden to prove their claim. Awards for compensation are provided for in sections 7 and 67 of the *Residential Tenancy Act*. Accordingly an applicant must prove the following when seeking such awards:

1. The other party violated the Act, regulation, or tenancy agreement;
2. The violation caused the applicant to incur damage(s) and/or loss(es) as a result of the violation;
3. The value of the loss; and
4. The party making the application did whatever was reasonable to minimize the damage or loss.

Only when the applicant has met the burden of proof for all four criteria will an award be granted for damage or loss.

In this case the Tenant was relying on what appeared to be some form of a settlement agreement whereby the Landlord agreed to pay her money if she moved out. The Tenant is still residing in the rental unit and there is no evidence before me that the Landlord breached the Act. Accordingly, I find there to be insufficient evidence to meet the test for damage or loss, as listed above, and I dismiss the Tenant's claim, without leave to reapply.

Conclusion

I HEREBY DISMISS the Tenant's claim, 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: November 26, 2013

Residential Tenancy Branch

