



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Aijia Property Care Co.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing dealt with an application by the tenants for a monetary order. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issue to be Decided

Is the tenant entitled to a monetary order as claimed?

Background, Evidence

The tenancy began on May 1, 2012 and ended on November 30, 2013. The tenants were obligated to pay \$2900.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$1450.00 security deposit.

The tenants' agent gave the following testimony:

The agent stated that the tenants are seeking \$8000.00 for compensation for having to endure a tenancy with four major deficiencies. The agent stated that the kick plates on the carpet were loose during the entire tenancy and were never repaired or replaced. The agent stated the sun room leaked from June 2012 to the end of tenancy especially after a heavy rain. The agent stated that it had four different repairmen make an attempt to repair it but was never fully corrected. The agent stated that there were cracks in the walls and ceiling that were never addressed. The agent stated that the addition to the main structure had become unsafe and it was sinking. The agent stated that they contacted the local municipality to have an inspector look at the home. The agent stated that the inspector verbally told the tenants it was unsafe to live there and that they should move.

The landlords' agent gave the following testimony:

The landlords' agent adamantly disputes the tenants' claims. The agent stated that the issues were "not directly unsafe threat". The agent stated that these items claimed by the tenant were items that were pre-existing and that the tenants were aware of them when they moved into the home. The agent stated that there was no safety risk. The agent stated that the tenants were not being truthful about the local inspector. The agent stated that the inspector came two weeks after the tenants had already given notice to move out. The agent stated that he had addressed the issues as the tenant brought them to his attention. The agent stated that the tenants exaggerated the timeline of these issues and that they were not an ongoing problem.

Analysis

At the outset of the hearing I asked the tenants agent to explain how they arrived at the monetary amount that they were seeking. The agent stated that it was for compensation for having to deal with these issues throughout the tenancy. Later in the hearing I asked the agent about the monetary breakdown of costs sought such as moving fees, gas, meals, coffee, printing and postage. The agent replied that that was the original \$8000.00 being sought but decided to change it to compensation for the four issues stated during the hearing. Later in the hearing the agent stated the security deposit of \$1450.00 was part of the claim even though it was not applied for, and that I should consider \$6550.00 as fair compensation for the four issues. The tenants and their agent lacked any clarity or preciseness in presenting their claim.

Each time I questioned the agent as to how they came to the amount sought the agent would ask for a moment and confer with the tenants and each time would provide a different calculation and version of how she came to \$8000.00. In addition they did not dispute that they didn't have any written order that the home was unsafe or that the inspection occurred after they had already given notice.

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.

Based on the very contradictory and inconsistent testimony of the tenants' agent the applicants have not provided sufficient evidence to satisfy all four grounds as required, specifically #2 and #3.

The tenants have not been successful in their claim.

Conclusion

The tenants' application is dismissed in its entirety.

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: April 01, 2014

Residential Tenancy Branch

