



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 was convened as the result of the tenants' application for dispute resolution under the Residential Tenancy Act (the "Act"). The tenants applied a monetary order for money owed or compensation for damage or loss and for recovery of the filing fee paid for this application.

The parties attended, 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. Neither party raised any issues regarding service of the application or the evidence.

Thereafter all parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Are the tenants entitled to monetary compensation and for recovery of the filing fee paid for this application?

Background and Evidence

Although no written tenancy agreement was submitted into evidence by the applicants, they provided undisputed testimony that the tenancy began on October 29, 2013, that the tenancy ended on March 31, 2014, monthly rent was \$1800, and that they paid a security deposit of \$900, which has been returned. The tenants submitted further that under the tenancy agreement, the tenants paid for all utilities.

The tenants' monetary claim is \$500, for the cost of heating oil.

In explanation and in support of their application, the tenants submitted that the landlords informed them at the start of the tenancy that the heating oil tank was almost full, and that they would receive a credit of \$100. After 4 months, the furnace suddenly stopped working, and the fuel company filled the tank, at a cost of \$1512.30, according to the tenants.

The tenants submitted further that based upon their own careful use of the heating while living there and the records of past oil deliveries, the oil tank was not full at the start of the tenancy.

The tenants submitted calculations based upon their usage and other past users of the rental unit. Due to this, the tenants submitted that they paid for more oil than they used.

Landlords' response-

The landlords submitted that the oil tank was filled on August 8, 2013, according to the receipt submitted showing a fill, and that no other persons resided in the rental unit until the time the tenants moved in. The landlords submitted further that the fuel company informed them that due to the summer weather, the tank could not be completely filled, requiring a few inches clearance to account for expansion. Due to this, the landlords gave the tenants a credit of \$100, according to the landlords.

The landlords submitted further that the furnace is forced air heat, requiring an adequate air flow, or more fuel would be consumed. The landlords explained that this was important to note due to all the vents being closed when they entered the rental unit at the end of the tenancy.

Analysis

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must

compensate the other party for damage or loss that occurs as a result, so long as the applicant verifies the loss, as required under section 67. Section 7(2) also requires that the claiming party do whatever is reasonable to minimize their loss.

I find the tenants submitted insufficient evidence the heating oil tank was not filled by the landlords when the tenancy began. The landlords' documentary evidence shows that the tank was filled on August 8, 2013, and I accept their evidence that no one else resided in the rental unit until this tenancy began.

I also considered that the tenants were unable to prove that their usage was comparable to other tenants in the rental unit.

I therefore find that the tenants submitted insufficient evidence to support their claim and I dismiss their application, without leave to reapply.

Conclusion

The tenants' application is dismissed for the reasons stated above.

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: August 21, 2014

Residential Tenancy Branch

