



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 with an application by the tenant for a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement. Both parties participated in the conference call hearing.

Issue to be Decided

Is the tenant entitled to a monetary order as claimed?

Background, Evidence and Analysis

I address the tenants' claims and my findings as follows.

The tenant gave the following testimony:

The tenancy began on October 2010 and ended on May 31, 2014. The tenants were obligated to pay \$1600.00 per month.

The tenant is seeking \$25000.00 for injuries she alleges is from "back stairs of house broke under my feet". The tenant stated that on September 18, 2013 she walked down the back stairs of her suite and that the back stairs "crumbled beneath me". The tenant stated that her daughter was at the base of the stairs. The tenant stated she did not fall to the ground. The tenant stated that she suffered lost wages and the cost of moving as a result of these injuries. The tenant stated that she twisted her back, neck and knees and bit her lip.

The landlords counsel submitted that the tenant did not provide any evidence to prove her claim. The landlords counsel submitted that the application was vexatious and that it should be dismissed on those grounds. The landlords counsel submitted that the tenant

did not abide by the rules of procedure and that there is no merit to any portion of her claim. The landlords counsel submitted that the tenant should not be allowed to file any further applications unless they have the written consent from the Branch.

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 has **not satisfied** me of any of the four grounds. In the tenants own testimony she referred her own doctors' report as "mumbo jumbo" and that much of her documentation were "just quotes". In addition, the tenant stated she had photographic evidence to show the poor state of the stairs however she did not submit it for consideration for this hearing. When questioned as to why she is seeking \$25000.00 she responded with "that's just a best guess-timate". The tenant has not been successful in her application.

Conclusion

The tenant's 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: December 02, 2014

Residential Tenancy Branch

