



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC; FF

Introduction

This is the Tenants' application for compensation for damage or loss under the Act, Regulation or tenancy agreement; and to recover the cost of the filing fee from the Landlords.

The parties gave affirmed testimony at the Hearing. The hearing process was explained to the parties. This matter was convened on August 29, 2014, and was adjourned to November 19, 2014.

It was determined that the Tenants served the Landlord's agent with the Notice of Hearing documents and copies of their documentary evidence by registered mail sent on April 28, 2014.

Issues to be Decided

- Are the Tenants entitled to compensation for the cost of bringing in water to the rental unit, pursuant to the provisions of Section 67 of the Act?

Background and Evidence

This tenancy began on July 1, 2012 and ended on October 31, 2013. Monthly rent was \$1,900.00. The Tenants paid a security deposit in the amount of \$1,000.00 and a pet damage deposit in the amount of \$500.00. There was a previous Hearing between the parties on March 26, 2014 (the "Previous Hearing"), which was convened to hear the Landlords' application for unpaid rent and damages. The Landlords were granted a monetary award in the amount of \$3,485.79, plus recovery of the filing fee. The deposits were set off against the Landlords' monetary award and the Landlord was provided with a Monetary Order against the Tenants for the balance of \$2,085.79.

The Tenants testified that the well on the rental property ran dry at the beginning of the tenancy and that they had to order water for bathing and flushing the toilet. The

Tenants testified that water was included in rent and that they were never compensated for their costs. The Tenants provided copies of invoices from a local water company in evidence. The Tenants seek a monetary award in the amount of \$1,476.00.

The Landlord denied that water was included in the rent. The Landlord submitted that the Tenants had agreed at the Previous Hearing that there was a “mistake” on the tenancy agreement and that the intent of the tenancy agreement was that the Landlords would ensure any water coming from the well was safe to drink, but not to guarantee that it was plentiful. The Landlord stated that he put in a UV filter and a secondary water collection system in 2012. He testified that he advised the Tenants before the tenancy began that the well might run dry. The Landlord submitted that the Tenants’ application was in retaliation for his monetary award against them.

The parties gave testimony about other issues surrounding the tenancy, such as the boiler system, but it was not relevant to the Tenants’ application and therefore has not been recorded in this Decision.

Analysis

This is the Tenants’ claim for damage or loss under the Act, regulation or tenancy agreement and therefore the Tenants have the burden of proof to establish their claim on the civil standard, the balance of probabilities.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulations or tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results. Section 67 of the Act provides me with authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Section 7(2) of the Act requires the party claiming compensation to do whatever is reasonable to minimize the damage or loss.

In this case, I find that the Tenants have not provided sufficient evidence that the Landlords breached the tenancy agreement by not providing water to the rental unit. The invoices provided by the Tenants are dated from August to October, 2012, for bulk water. The Tenants did not provide evidence of any written demand to the Landlord for water, or for recovery of their costs incurred procuring water. The Tenants did not provide an explanation for why they did not file an application for compensation until April of 2014. Therefore, I prefer the evidence of the Landlord and find that the Landlord was responsible for ensuring the well water was potable, but not for ensuring that it was plentiful.

Conclusion

The Tenants' application **is dismissed 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: December 15, 2014

Residential Tenancy Branch

