



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF, CNR, MNDC

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The tenant also filed an application seeking to have a notice to end tenancy set aside and a monetary order. The tenant participated in the teleconference, the landlord did not. As both parties have filed an application I'm satisfied both parties were fully aware of the date and time of the hearing. The hearing proceeded and completed in the absence of the landlord. The tenant gave affirmed evidence.

Issues to be Decided

Is either party entitled to any of the above under the Act, regulation or tenancy agreement?

Background and Evidence

The tenant gave the following testimony:

The tenancy began on or about October 15, 2014. Rent in the amount of \$700.00 is payable in advance on the first day of each month. The tenant stated that she moved out of the unit on January 13, 2015 and that there is no outstanding rent. The tenant stated that she lost approximately \$3000.00 of personal items as a result of the landlord's actions. The tenant stated that she will be pursuing criminal charges against the landlord.

Analysis

Neither party submitted any documentary evidence for consideration except a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. As the landlord chose not to submit any supporting documentation for their claim or participate in this hearing, I dismiss the landlords' application in its entirety.

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 stated that due to limited funds she was unable to provide any supporting evidence for her claim; however that does not extinguish the tenants' obligation to satisfy the four grounds as listed above. In the matter before me the tenant has failed to meet any of the above grounds and I therefore must dismiss her application in its entirety.

Conclusion

The tenants' application is dismissed.

The landlords' application is dismissed.

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: January 27, 2015

Residential Tenancy Branch

